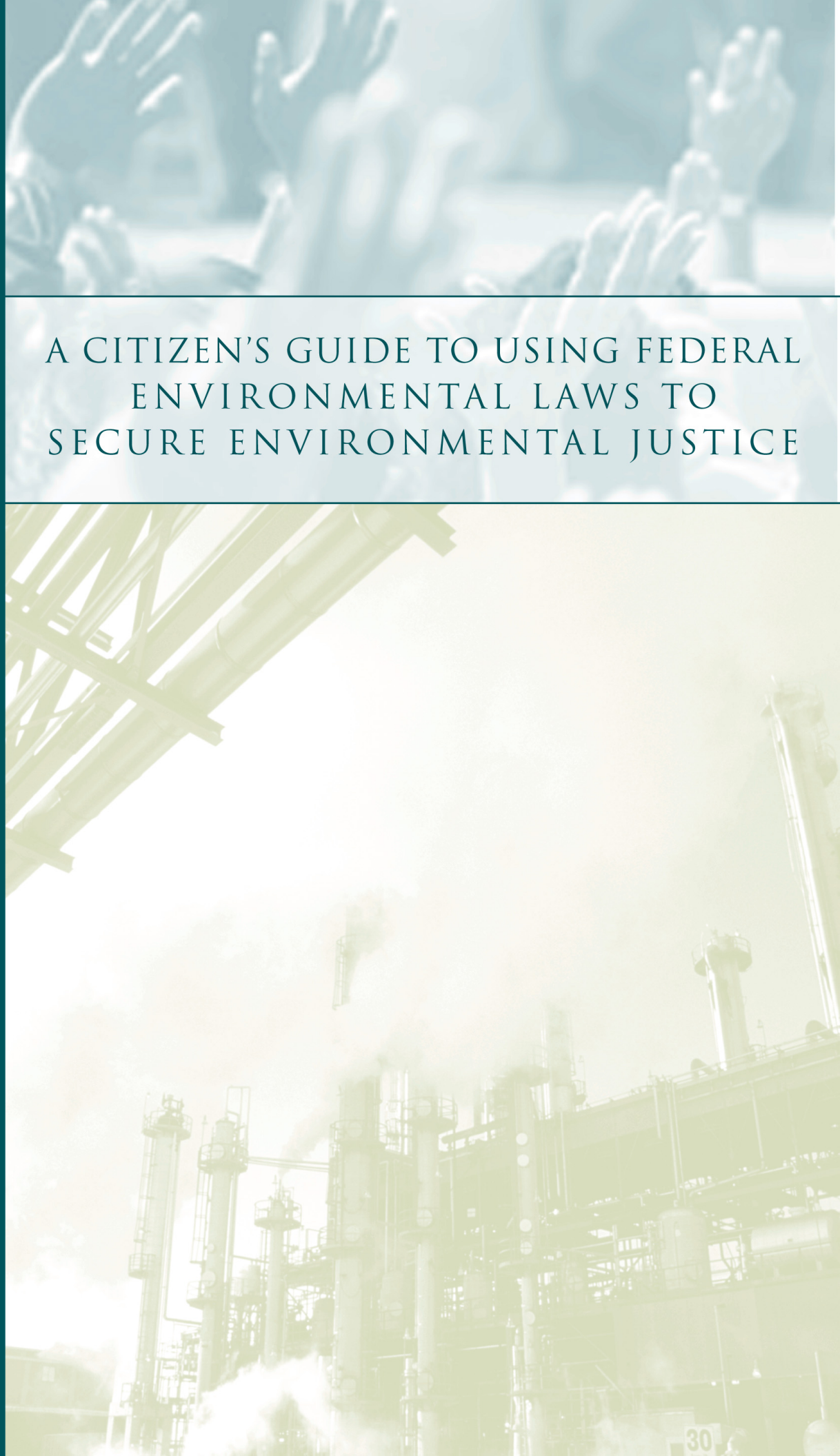
A CITIZEN'S GUIDE TO USING FEDERAL ENVIRONMENTAL LAWS TO SECURE ENVIRONMENTAL JUSTICE



ENVIRONMENTAL LAW • INSTITUTE®

Environmental Law Institute Research Report

A Citizen's Guide to Using Federal Environmental Laws to Secure Environmental Justice

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CHAPTER 1:
Introduction to Environmental Laws and Environmental Justice

This handbook is a companion to a more extensive report, entitled, "Opportunities for Advancing Environmental Justice: An Analysis of U.S. EPA Statutory Authorities" (ELI Statutory Analysis), which highlights the provisions in the environmental laws that could be used by the Environmental Protection Agency (EPA) to promote environmental justice. This handbook is written to be a practical guide for community residents who want to know how the environmental laws can be used to promote environment justice in their communities. It focuses on opportunities, legal rules, and tools that community residents have under environmental laws to protect their health, the health of their families and neighbors, and their environment.

Unlike the more extensive companion report, it is assumed that most readers of this handbook will be unfamiliar with environmental laws and their legal consequences. To help readers follow the discussion, a glossary is provided and a list of acronyms used in the handbook can be found in Appendix F. In addition, text boxes with page numbers of the ELI Statutory Anaylsis appear throughout the handbook to direct the reader to the coresponding discussion and in-depth analysis in the companion report. The companion report is available electronically at no cost from the Environmental Law Institute web site <www.eli.org>. Click on "Publications" then "2001 Research Reports" to obtain a copy. You can also order the report by calling 1-800-433-5120.

INTRODUCTION TO ENVIRONMENTAL JUSTICE ISSUES

Environmental justice concerns arise in environmentally burdened communities of color and low-income communities all over the country, in a large variety of settings, involving a large number of different environmental threats. Just to focus on two of the many possible examples of environmental justice concerns, picture the following situation in which you might find yourself:

A headline in the morning newspaper reads: "Help on the Way to Solve Power Crisis, New Plant Slated for *[Your Community]."* The article explains that the local power utility and the state environmental agency believe it is necessary to "fast-track" the siting of new electric power plants in order to help prevent the power shortages that hit the state last summer, especially during heat waves when homes and businesses ran their air conditioners virtually nonstop. The first new plant that will be built under the new emergency program, according to the state air quality director, will run using "the cleanest coal available." The plant will be located a short distance from your home, and not far from where your children play. But a power company spokesman says the siting is desirable because the available land is next to a railroad line, close to existing industrial areas, and is inexpensive and therefore will keep electricity rates low.

A dozen questions run through your mind. What do they mean by "fast-track," and how will it affect your ability to have a say in the issue? How can they say the plant "will be built" when this is the first you've ever heard of it? How clean is the "cleanest coal available?" What will that mean for the quality of the air you and your children breathe, and will it make your daughter's asthma even

worse? You know that air pollution in the area is already bad, especially in the heat of summer, because the neighborhood *is* near a large set of existing factories, as well as the biggest freeway in the city. And with some anger you consider that most people in your neighborhood don't even *own* the air conditioners responsible for the "power crisis."

Later that day, you find yourself listening to a presentation by someone from the state Department of Environmental Protection about a proposal to clean up a hazardous waste site and give it to the school board *for free* as the site of the new junior high school. Faced with severe funding shortages and few good locations for new schools, the board is obviously interested in the proposal. The state official informs the board that the site will be cleaned up using the "best available methods" under the federal Superfund law. She promises that after the cleanup is finished and the site is covered with clean soil, any remaining health risks will be within an "acceptable range," and assures the board that the school district would not be legally responsible for any remaining risks.

You have heard of Superfund and know that it is used to clean up the worst hazardous waste dumps in the country, but you didn't know that such a site existed in your community. You begin to wonder if that explains why so many of your neighbors have developed cancer in recent years, and you've heard that many other residents have health problems. You also know that your drinking water comes from underground wells in the area. What are the "best available cleanup methods," and what is an "acceptable range" of risk? And if the risk will really be that low, why is the board even concerned about who will be "legally responsible" if something goes wrong?

After hearing about both of these proposals, your mind is filled with more questions and concerns. How do I find out more about these proposals? How can I ever understand all the technical information the government hands out? Does my community get the chance to give our opinion on either proposal? Who is in charge of making these decisions? Is it too late? Has anyone considered the health impacts of having so many potentially polluting activities in one place? Does it matter that our children are already ill with asthma and other respiratory problems?

Some Environmental Concerns

- Cumulative impacts (health threats coming from more than one source, which can add on to each other)
- Synergistic impacts (two pollutants combined together that create a more toxic substance and pose a greater health threat than each pollutant would on its own)
- Sensitive subpopulations (pre-existing illness or disease in the community)
- Quality of life impacts (such as noise, odors, and traffic)
- Economic impacts (such as reduced property values, lost wages, and medical bills)

Many such scenes are playing out all over the country, raising serious environmental justice concerns. It may be a sudden increase in illnesses among workers in a farm community, or new signs posted next to a local stream warning people against eating fish they have caught and served on their dinner tables for years. You might get a notice in your water bill identifying a long list of contaminants in your tap water but indicating that the water company is seeking a "variance" from certain federal drinking water standards. You may learn that the state plans to locate a "low-level" nuclear waste facility in your town.

Countless independent studies have concluded that communities of color and low-income communities are disproportionately exposed to environmental harms and risks. These communities are often required to host polluting facilities that nobody else wants. And often, it's not just one pollution-generating facility – it's a combination of incinerators and waste dumps and wastewater treatment facilities and refineries and factories in the same community. Residents may also be exposed to environmental pollutants from jobs that involve chemicals, automobile exhaust, and reliance on contaminated fish and other locally grown food.

One of the greatest challenges for community residents is to focus the government's attention on the adverse health impacts of having multiple sources of pollution in one community. This is commonly referred to as "cumulative" impacts (health threats coming from more than one source which add up) or "synergistic" impacts (two pollutants combined together that may create a toxic substance that poses a greater health risk than each pollutant would on its own). In many cases, an environmental agency issuing an operating permit to a new polluting facility looks only at that one facility, and does not consider what other pollution sources already exist nearby. Environmentally burdened communities can make sure that the government knows all the facts about other sources of pollution and existing health problems in the community *before* a decision is made about whether to issue a permit and about what limits on additional pollution to put in the permit.

A related environmental justice issue comes from the likelihood that there are sensitive populations that are at greater risk from exposure to pollutants. Children of color are especially likely to suffer from elevated blood lead levels, due in large part to their exposure to lead-based paint in older, substandard housing. Asthma is particularly high in urban communities, which are often exposed to numerous sources of air pollution. Low-income families may be more susceptible to adverse health effects generally as a result of poor nutrition, poor general health, and limited access to health care. Some communities may be exposed to pollutants more frequently because they eat a lot of fish or garden vegetables that grow in polluted water or soil, or are exposed to pesticides through farm work.

Communities that have more than their fair share of industrial and commercial activity also can suffer a range of social and economic effects. Community residents often ask environmental agencies to consider quality of life impacts such as noise, odors, and traffic, as well as economic impacts such as reduced property values, lost wages, and medical bills.

Finally, many heavily impacted communities face challenges in participating in government decision-making because they are not aware of available opportunities to participate. Even when they are aware of the opportunity, community residents may have difficulties participating because of language or cultural barriers, lack of technical resources, past exclusion, time constraints, and financial constraints. There are many ways the government can address these difficulties, especially if you make them aware of your situation.

This handbook has been written with these unique environmental justice concerns in mind. It highlights sections of environmental laws that can be used to support and help advance your environmental justice goals.

HOW ENVIRONMENTAL LAWS CAN HELP YOU TO PROTECT YOUR COMMUNITY

Environmental laws are technical and complex. But with some research and effort, anyone can understand the most important ideas in those laws and how to use them – along with civil rights laws, community organizing, and other methods – to address community health concerns and exposure to environmental harms and risks. Environmental laws give you opportunities for evaluating proposed projects and tools to ensure that decisions affecting your community are made properly – tools such as access to information, public hearings, review of decisions by higher-level officials, and legal action in court if the rules have not been followed. Although some environmental problems will be highly technical and complex (requiring the assistance of lawyers and technical experts), knowing the basic opportunities and tools provided in environmental laws can help you make sure that government decisions consider environmental justice issues. Understanding these opportunities and tools can also help you to get other community members involved, and to work more effectively with lawyers and other experts.

Some of the general legal rules and tools provided in environmental laws can be extremely useful to promote environmental justice issues. For example:

- **Public notice and comment requirements:** In almost all of the cases in which the government gives someone permission (a "permit") to conduct a polluting activity, the public has a right to learn about those permits before they are issued ("notice") and to offer information and ideas about whether the permit should be issued, and if so, on what terms ("right to comment"). In some cases, the government must hold a public meeting at which people can speak about their views on the issue and submit more information. Citizens can provide information, for instance, about the high levels of pollution and illness already faced by their community or about their higher-than-average level of fish consumption that may affect government estimates of the risk posed by a polluting facility.

- **Environmental impact statements:** In some cases, the federal government must prepare a detailed "environmental impact statement" or "EIS" before issuing pollution permits or taking other "major" actions that may affect your health and safety. Those statements must describe fully all of the harmful effects of the proposed actions, and evaluate whether there are other, less harmful, ways of accomplishing the same goal ("alternatives"), including doing nothing (the "no action" alternative). The public also has the right to comment in this process. For example, citizens can comment about the failure of an EIS to examine fully the impacts of siting the proposed project in a community that already hosts a high percentage of the area's polluting facilities.

- **Citizen suits:** If you believe that either the government or a private party is breaking an environmental law, you have the right to bring a lawsuit to stop them. You may also be able to bring a lawsuit to require the government to take an action that is required under the environmental laws. Congress has made citizen suits a part of every major environmental law.

In addition, environmental laws contain various requirements and opportunities that can be applied to address cumulative impacts, sensitive populations, and other issues of concern to many communities of color and low-income communities. For example:

- **Air:** There is a provision in the Clean Air Act designed to make sure that city residents who already face serious air pollution problems do not have to breathe even dirtier air, and that requires air pollution to be reduced over time.

- **Superfund:** The Superfund law has a section that allows communities to get money from EPA to hire their own scientists to help them participate effectively in decisions about the best way to clean up contaminated property.

- **Water:** Some elements of the Clean Water Act (as well as other laws such as the Clean Air Act) require the government to consider combined health effects of different sources of pollution. In some circumstances, the government must consider the fact that pollution levels are already high in your community before allowing even more pollution to occur.

Federal and state government agencies can apply environmental laws to address environmental justice issues, but you may have to help make sure that they use the opportunities to do so. Community residents are in the perfect position to identify their concerns to the government, and to provide the facts that can support government action to address those concerns.

Using Environmental Laws to Promote Environmental Justice

- Identify fully the impacts of agency actions and decisions on environmentally burdened communities
- Advocate for agency decisions that are aimed at remedying and preventing disproportionate impacts
- Ensure that communities have meaningful input in identifying impacts, making decisions and implementing environmental programs

HOW THIS HANDBOOK CAN HELP YOU TO USE ENVIRONMENTAL LAWS TO YOUR ADVANTAGE

This handbook is designed to introduce you to some of the ways in which the major environmental protection laws administered by the federal EPA and state environmental agencies can be used to address environmental justice issues. The handbook will not cover all the issues that you may face, but it can help you know what questions to ask, and what information to collect to provide government officials with the information necessary to do the right thing, even without the help of lawyers and technical experts.

Environmental statutes, or laws, address a wide range of environmental harms and risks that may be faced by your community. While it would be easier if a single statute addressed all environmental threats, different laws address different types of environmental issues (such as the Clean Air Act for air pollution, or the Clean Water Act for river and lake pollution). Other laws – or sometimes combinations of laws – may apply to drinking water issues, groundwater contamination, hazardous waste sites, exposure to pesticides and other toxic chemicals, or contaminated food sources.

Similarly, while it would be easier if a single government agency administered and enforced all of these environmental laws, that is not the case. In the federal (national) government, most environmental laws are implemented by EPA. Other federal agencies (such as the U.S. Army Corps of Engineers, the Department of Agriculture, and the Department of Health and Human Services) also have some role to play in implementing and enforcing all or parts of other environmental laws. Those agencies all have offices in Washington, D.C., but also in different parts of the country (regional offices). In addition, many of the environmental laws are administered jointly by federal, state, and sometimes local government agencies, and the roles played by each can vary depending on the law in question. Those state and local agencies, in turn, may operate under both the federal statute and a similar state law or local ordinance. This handbook focuses on laws that EPA implements.

In dealing with a particular set of environmental threats, community residents need to identify some important initial information to get started in the right direction:

- **What is the issue?** Is your community already burdened with multiple polluting facilities, so that the cumulative impacts should be considered in deciding whether another factory should be built? Do you or your neighbors eat fish from the stream running through your community, so that any discharges into the stream should protect that subsistence resource? Is there a high rate of asthma or other illness in your community that might warrant stricter air pollution rules? If you

describe clearly what your concerns are, the government will be more likely to understand fully the environmental justice ramifications of its decision. This focus will also help you use the legal rules and tools described in this handbook to your greatest advantage.

- **Who are the key players?** Who is in charge of decisions that affect the environmental threats in question, and what can they do? In some cases, a single government agency will be in charge of most or all of the relevant decisions. More often, different agencies are involved in different ways, with some having more authority to address environmental justice concerns than others.

- **Which of the many environmental laws apply?** Sometimes a single statute will apply, but often some combination of laws will govern different aspects of a problem. This is important to know because one statute may provide more or better tools to address environmental justice issues than others. While you should certainly ask the responsible government officials which laws *they* think apply, do not rely on their opinions exclusively. The government staff person you talk to knows their own subject area (for example, air) and is not necessarily familiar with other environmental laws (such as hazardous waste or toxic chemical) that may also be relevant to your problem.

- **Which provisions of those laws apply to your case?** Once the relevant laws are identified, you should search for two types of legal requirements. Some are designed specifically to address issues of environmental justice, but these are relatively rare. Others apply whether or not they involve environmental justice issues. These more general provisions can still help you, even if they were not designed with environmental justice in mind. Again, while you should ask agency officials which provisions they think apply, do not necessarily limit yourself to their opinions. Part of your job may be to convince them to take new and different approaches, or to use different parts of the laws that provide more protection to you and your community.

- **What are the key deadlines?** Learn the time periods in which decisions will be made and identify opportunities for community involvement. This information can help you to organize community members by letting them know when they can attend hearings, write letters, and be involved in other ways. It is also critical to know when you have a chance to give input, because some times you lose your right to do so (or even to bring legal action later on) if you don't speak up at the right time.

- **What are the likely sources of relevant information?** Federal, state and local governments collect various types of information that may help you learn more about the environmental threat you are focusing on. It could be information about the operation or polluting discharges of a specific facility in your community. It could be information about the general levels of pollution in your state or community. It could be information about other similar facilities and the requirements that were contained in their permits and approvals. It could be research about the health effects of certain chemicals or the long-term effectiveness of certain cleanup technologies. Often, this is public information which you are entitled to review. In some cases, the government may be able to request that someone else provide the information you seek.

The rest of this handbook, along with information in the appendices, is designed to help you answer these key questions.

HOW THIS HANDBOOK IS ORGANIZED, AND WHAT IT COVERS

The following chapters of this handbook will describe some of the key aspects of environmental laws most useful to community residents, and the tools available to enforce them. It describes:

- public notice and participation rights and opportunities
- access to information about environmental threats
- the major rules about how much pollution can be allowed
- ways the government and citizens can enforce the law
- funding and other resources to help you in your efforts, and
- an outline of the key "players" in environmental decisions, including who has the authority to make decisions.

Chapter 2 describes the variety of players involved in administering and enforcing environmental laws. Chapter 3 discusses the key *categories* of legal rules, requirements, and procedures that will be most helpful for promoting environmental justice concerns, with some specific examples from federal statutes. Because a handbook of this size cannot describe in detail each and every provision of every law, only selected examples are given in the main text.

Appendix A provides more detailed information to help you decide which law or laws may be relevant to the specific problem facing your community. Appendix A also provides a summary of each of the major federal environmental laws covered in this handbook, as well as a chart identifying how the main sections of each environmental statute fit within each category of legal rules and tools discussed in Chapter 3. At the beginning of Appendix A is an explanation of how to use the chart.

The handbook also includes other appendices with information on:

- community grant progrmas administered by EPA (Appendix B)
- sources of written information on environmental justice issues (Appendix C)
- how you can contact key federal and state offices (Appendix D and E)
- list of acronyms used in this handbook (Appendix F), and
- glossary of terms used in this handbook.

Important Questions to Ask Before You Get Started

- What is the issue?
- Who are the key players?
- Which of the many environmental laws apply?
- Which provisions of those laws apply to your case?
- What are the key deadlines?
- What are the likely sources of relevant information?

As mentioned earlier, this handbook is a companion to the ELI Statutory Analysis. That report discusses the legal authorities for advancing environmental justice in greater detail. Since this handbook is written specifically for community residents, it has a more practical, community-oriented focus. Any reader interested in more detail about individual provisions of the laws should refer to the ELI Statutory Analysis.

WHAT THIS HANDBOOK DOES NOT COVER

Because there are so many different statutes that could be considered "environmental laws" (addressing issues from toxic pollution to endangered species to how our National Forests are run), it is important to understand what is covered in this handbook, and what is not. The statutes discussed here are those that mainly address environmental pollution – that is, contamination of air, water, soil, or food supplies by toxic and other pollutants – and that are administered at the national level, mainly by EPA. This handbook does not address a wide range of other "environmental" laws implemented by other federal agencies (such as the Endangered Species Act, which is implemented by the Department of the Interior's Fish and Wildlife Service to protect threatened and endangered plant and animal species, or the National Forest Management Act, which is implemented by the Department of Agriculture's National Forest Service). It is possible that some of these other laws may be relevant to environmental justice issues, even though they are not addressed in this handbook.

Similarly, this handbook is designed to cover the major *federal* environmental pollution laws. Each state, especially those states that have chosen to administer parts of the federal environmental laws and programs, have adopted parallel state laws for many of these programs. While it is impossible to cover the many variations in each of the 50 states, it may be important for you to learn and to understand the ways in which the laws in your state may modify, add to, or strengthen the tools you have under the federal statutes. Likewise, your local government, zoning officers or local elected official may be good places to raise environmental justice concerns.

Typically, statutes set out the basic framework established by Congress for addressing an environmental issue. The government agency charged with implementing the statute then issues regulations or rules that contain more detail than the statutes, but that build on the statutory framework. All the statutes discussed in this handbook and outlined in Appendix A have extensive rules to help agency staff apply the basic requirements to individual situations. These rules or regulations are not included in the handbook, but will contain many details that you will want to know as you get more involved with a specific issue. The rules can be found by looking up the statute you are interested in the U.S. Code Annotated (a series of books that has all federal laws in one place). At the end of each section of the law, it will say which rules have been written under that section and where to find them in the Code of Federal Regulations (a series of books that has all federal regulations in one place). Both the U.S. Code and the Code of Federal Regulations are available online. For example, the U.S. Code can be searched electronically at http://www.findlaw.com/casecode/uscodes. Regional EPA offices, as well as law libraries or courthouses near your community, should also have copies.

This handbook also does not cover the government's responsibilities under Title VI of the Civil Rights Act (42 U.S.C. §§ 2000d to 2000d-7; 40 C.F.R. Part 7). In general, EPA must exercise ongoing oversight to ensure that state programs and other recipients of EPA financial assis-

tance do not discriminate against people based upon race, color, or national origin.

Finally, the legal opportunities identified in this handbook are only one tool for communities to address environmental justice issues. This handbook does not discuss community organizing, political activity, media campaigns, or other ways of affecting environmental decisions. In some cases, the law may not be the best way to address a problem. The information in the following chapters and in the appendices can help you decide how best to use environmental laws to further the environmental justice concerns in your community.

CHAPTER 2:
Understanding the Players and the Laws

As mentioned in Chapter 1, you first need to answer two important questions to understand how the law can be helpful:

- Which agencies are responsible for the key decisions that will affect the environmental risks you are facing?
- Which of the various environmental statutes apply?

Do not assume that one agency will be able to address your concerns. In some cases, multiple agencies at different levels of government will be involved in different decisions about a particular issue or project, or multiple statutes may come into play. In other situations, one agency may have the responsibility or authority to review, and possibly to change or reverse, the decision of another.

Key Players

Decision-Makers
- U.S. Environmental Protection Agency (EPA)
- State environmental agencies
- U.S. Army Corps of Engineers
- Agency for Toxic Substances and Disease Registry (ATSDR)
- Federal Food, Drug and Cosmetics Administration
- Natural Resource Conservation Service (NRCS)
- U.S. Fish and Wildlife Service (FWS)

Other Interested Parties
- Business groups
- Local governments
- Emergency planning or response officials
- Environmental groups
- Citizen groups

IDENTIFYING THE PLAYERS

It is essential that you make your case to the correct government officials, and that you take advantage of available options to get help from all people that may influence a decision. It also can be very important to know which other people are likely to be involved in your issue, and whether they are potential supporters or opponents. This handbook focuses on EPA and the laws it administers. It is important to know, however, that additional government agencies can be involved in decisionmaking that affects your community. The following is a list of the main governmental and other entities that are likely to be involved in environmental decisions.

The U.S. Environmental Protection Agency (EPA)

EPA is an agency of the federal government charged with administering and enforcing most of the environmental statutes addressed in this handbook. EPA plays many different roles under these laws, depending on the statute or situation. It is often important to determine EPA's responsibilities in a particular state. Some of EPA's major roles and responsibilities include:

- Issuing environmental rules and regulations that apply throughout the country.
- Issuing guidance (recommendations) on how the environmental laws should be put into action at both the national and state levels.
- Issuing or denying environmental permits and other approvals in states that choose not to do so for themselves (see state discussion below).
- Overseeing regulations, permits, and other actions taken by state environmental agencies and in some cases

vetoing or amending state actions which EPA believes are inconsistent with, or inadequate under, federal environmental laws.

- Enforcing environmental laws against polluters in all states.
- Conducting environmental research, monitoring, analysis, and other information collection, and providing the information obtained to Congress, states, other agencies, and the general public.
- Administering grant programs that provide resources to states, citizens, and other groups.
- Planning for and supervising cleanups of hazardous waste sites.
- Ensuring that environmental justice is integrated into all agency programs, policies, and activities, and is considered in the decisionmaking process.

While EPA's national headquarters are in Washington D.C., it has regional offices located in ten major cities around the country (Boston, New York, Philadelphia, Atlanta, Chicago, Kansas City, Dallas, Denver, San Francisco, and Seattle). EPA also maintains special facilities, such as laboratories and research centers, in other locations. Most of the major program decisions involving the entire country are done at headquarters. Most decisions involving individual projects or facilities are handled from the regional offices. Appendix D includes a list of all of EPA's regional offices, their addresses and contact information, and states covered by each regional office.

State Environmental Agencies

Every state has one or more environmental agency charged with administration, at the state level, of many of the environmental laws dealt with by EPA nationally. Because the names and authorities of these agencies vary considerably from state to state, it is important for you to learn which agency or agencies in your state are responsible for which laws and programs. For example, in some states, a single agency is in charge of all environmental programs (such as air pollution, water pollution, hazardous waste regulation and cleanup). In other states, different agencies – such as a state water pollution control board and a separate air quality control board – can be in charge of different statutes and programs.

An important initial piece of information is whether your state has received authority to administer any or all programs under the national environmental laws. Some statutes (such as the law governing pesticides use) allow only EPA to make decisions. Others (such as laws governing air, water, and solid and hazardous wastes) allow for states to operate the programs.

Your state may have decisionmaking authority under some environmental laws, but not all. If a state chooses to have EPA administer an environmental program, key decisions about permits and approvals under that statute are made at the EPA regional office. This does not necessarily mean that you should ignore your state environmental agency. The state may be able to influence EPA's decision, or the state may have separate state legal authority to address your concerns, even if it does not have authority under the relevant federal program. Under the Clean Water Act, for example, states have the authority to amend or reverse an EPA permitting decision, if the state believes it would violate state water quality requirements. Since water quality standards can be an important tool to address environmental justice issues (such as localized contamination of fish, shellfish, or drinking water), this state authority can be important, even when the state does not issue the permits.

States can also elect, however, to seek "primacy" or program "delegation" for many environmental programs. Primacy or delegation means, for most purposes, that the state will have the lead role in running the program. To do so, they must meet certain minimum requirements. For example, to receive program authority, states typically must adopt adequate laws and regulations, and prove that they have the funding and other resources necessary to administer and enforce the laws properly. When a state applies for program delegation, it is a key moment for citizens to ensure that state environmental programs are strict enough to meet their needs, and that environmental justice issues are considered properly in the state program. Because EPA must approve each state's program as adequate, citizens have an opportunity to identify program weaknesses when the state asks for delegation. Citizens can also challenge an EPA decision to approve an inadequate state program. Even after initial program approval, EPA is supposed to monitor the state program on an ongoing basis. Thus, citizens who believe that a state is not administering or enforcing an environmental statute properly – for example, by failing to consider or address environmental justice concerns – can bring those issues to EPA's attention. They may even file petitions for state programs to be withdrawn or modified and returned to EPA for administration and enforcement.

Short of state program withdrawal, however, EPA has a continuing obligation to review state permitting and other program decisions, and often has the authority to veto

individual state decisions. For example, under the Clean Water Act, EPA has the authority to review, veto, and reissue state water pollution permits. Thus, while in states with delegated authority to administer environmental laws, your primary attention should be on the responsible state agency, you can also bring important environmental justice and other concerns to the attention of the EPA regional office, and ask EPA to intervene if states are ignoring those issues.

Regardless of whether EPA or the state has the authority to issue environmental permits and approvals for a particular program, both EPA and the state have legal authority to bring enforcement actions against polluters (those who release pollutants or conduct other activities without the required permits, or in violation of those permits). Some recent court decisions have ruled that states cannot sue a polluter after EPA has done so, and vice versa. But until some environmental agency has taken action against illegal pollution, you should raise your concerns at both the state and federal levels. As noted below and in Chapter 3, if neither government brings adequate enforcement action, you can also take matters into your own hands through citizen suits.

Other Federal Agencies

While EPA and its state counterparts are the principal government agencies implementing most of the environmental pollution laws, a number of other federal and state agencies can be important players as well, either because they administer parts of the major environmental laws, or because they have major influence over decisions that are made. While you will have to identify which other state agencies may be helpful or involved in your own state, some of the many important federal agencies include the following:

- **Army Corps of Engineers** of the Department of Defense, issues permits to discharge dredged or fill material into wetlands and other waters under the Clean Water Act.

- **Agency for Toxic Substances and Disease Registry** (ATSDR), within the Department of Health and Human Services' Centers for Disease Control, conducts health assessments at Superfund sites.

- **Federal Food, Drug, and Cosmetics Administration** of the Department of Health and Human Services, administers food safety programs under the Federal Food, Drug and Cosmetics Act.

- **Natural Resource Conservation Service** and other agencies within the Department of Agriculture administer programs to prevent agricultural chemicals and other pollutants from running off into surface and ground water, and provide grant and technical assistance to help farmers comply with environmental requirements.

- **U.S. Fish and Wildlife Service**, within the Department of the Interior, must be consulted by other federal agencies whenever an action may jeopardize the existence of a threatened or endangered species, and has the authority to veto or impose conditions on other federal actions that would have such effects.

While some of these agencies have no direct regulatory authority over environmental justice issues, they may share your concern and may be able to help you.

Other Interested Parties

Community residents are not likely to be the only non-governmental group interested or involved in a particular environmental issue. Often one or more private or governmental organization is pushing for the development of a project your group may think is harmful, or is seeking weaker or less expensive cleanup requirements for existing polluted sites. A surprising array of organizations may line up for or against a particular proposal – including business groups who may be affected indirectly by the decision, local governments, or other citizen groups. One reason to attend public meetings and hearings is to identify all of the other groups involved in key decisions, and to learn what their positions are. It is useful to obtain copies of attendance sheets or lists of witnesses, which may provide names, organizations, and contact information (address, phone, e-mail addresses, etc.).

The following is a list of some other players who may be involved in environmental issues and decisions:

- **Business groups** can be involved through individual companies or through trade associations. These groups may represent businesses involved directly in the decisions at hand (such as permit applicants or owners or operators of contaminated sites). They also may stand to gain from a particular government action, such as the construction companies who are likely to benefit from a new road project, or potential users of energy from a new power plant. Be aware, however, that business interests are not *always* contrary to those of environmental justice groups. For example, firms that build mass transit

systems might agree with your concerns about building a new freeway through an urban neighborhood, and may be able to help you think of better alternatives.

- **Government agencies** other than those that make the actual environmental decisions may be involved, including state, regional, or local governments. Sometimes they are the main project supporter (such as a state or local department of transportation, which may be applying for environmental permits to build a new road), and sometimes they have less direct interests. The state parks or wildlife department, for example, may be concerned if a proposed road will pass too close to an important wildlife area. Because different government agencies address so many different interests and issues, it is wise to think carefully about which agencies may be on which side of a given issue, and how you may be able to influence agencies that are not yet sure which positions to take.

- **Local governments** may play a critical decisionmaking role. In some programs, federal or state environmental agencies are *required* to take special note of local government positions on an issue. In other cases, a project may require *both* federal or state environmental approval *and* local zoning permission, meaning there may be two separate avenues for stopping or changing a proposal. Your local elected officials may also be persuaded to champion environmental justice issues.

- **Emergency planning or response officials,** at all levels of government (such as local fire departments), can be involved closely in the cleanup of existing contaminated sites and in the approval of new, potentially dangerous facilities. While often these agencies are concerned mainly with issues of coordination and access to the information they need to do their job, in some cases you may be able to persuade them to help you get your concerns addressed. For example, you may be able to convince them that it would be very difficult or impossible to evacuate an urban area, where residents rely heavily on mass transit, in the event of an accident at a new proposed chemical plant.

- **Other environmental groups** are often involved in the same or related issues as environmental justice groups, either for similar or for very different reasons. Whenever two related groups are working on the same issue for different reasons, there is the potential for problems down the road if one group's issues can be resolved and another's are not. You may be able to educate other groups about your issues and to work cooperatively to meet shared objectives, even if you choose different methods to do so.

- **Other citizens groups** may be involved in environmental issues to address other types of concerns, some of which may help and some of which might hurt your position. For example, groups that represent physically disabled individuals may support mass transit over new roads for entirely different reasons than yours, but they may be allies in the issue nonetheless. On the other hand, a consumer group may actually support a proposed new power plant if it is convinced that power rates for consumers will be lower as a result. It is important to understand fully the reasons for their initial positions. If reasonable options can be presented that provide the same benefit to consumers, and if the group understands your environmental justice concerns better, it is possible that their initial position can be changed.

- **Faith-based groups,** such as churches, may be interested in or already be involved in environmental issues in your community. Over the years, faith-based groups have played a leadership role in the environmental justice movement. At a local level, they may be powerful advocates for your position on an environmental issue and may be able to help find additional community members to work with you on a particular environmental problem.

- **Academic institutions,** including universities and colleges, around your community may be able to provide resources and support that could help you work on environmental issues in your community. For example, some universities have special environmental justice resource centers and legal clinics. You should check with the academic institutions near your community to see if they have such programs. Even if your neighboring university does not have such a special program, they may be able to provide support, such as technical assistance, if you ask them.

UNDERSTANDING THE LAWS

It is impossible to describe all of the complex federal environmental statutes in detail in this handbook. Appendix A, however, includes a basic description of each statute discussed here, what problems the law is designed to address, and the basic mechanisms for using the law. It also includes detailed charts for each statute,

identifying specific sections of the law that fit within each category of legal opportunities and tools discussed in Chapter 3. Readers interested in a more detailed discussion of the statutory sections should refer to the ELI Statutory Analysis.

The following major environmental statutes are addressed in the appendix, and are used as a basis for the explanations and examples given in the next chapter. In addressing any environmental justice issue, one of your first tasks will be to determine which of these laws might apply:

- **National Environmental Policy Act (NEPA).** NEPA sets up a process by which the federal government must evaluate the environmental impacts of any major actions that it plans to take.

- **Federal Water Pollution Control Act ("Clean Water Act") (CWA).** The CWA reflects Congress' intent first to control and then to eliminate all pollutant discharges into U.S. waters. The statute sets a "zero-discharge" goal for toxic pollutants.

- **Clean Air Act (CAA)**. The CAA is the federal law that regulates emissions into the air from stationary (not able to move) and mobile (able to move) sources in order to protect public health and decrease air pollution.

- **Resource Conservation and Recovery Act (RCRA).** RCRA is the primary federal law regulating the management and disposal of solid and hazardous waste. Subtitle C of the statute creates a complex system designed to manage hazardous waste from its creation, through its transportation, to its ultimate disposal. Subtitle D of RCRA includes planning requirements and technical criteria for building municipal solid waste (garbage) facilities.

- **Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)**. CERCLA (also known as "Superfund") was enacted in 1980 to address the cleanup of sites where hazardous substances have been released into the environment or where there is a substantial threat that hazardous substances will be released into the environment.

- **Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and Federal Food, Drug, and Cosmetic Act (FFDCA)**. FIFRA and FFDCA together provide the framework for pesticide regulation in the United States. Under FIFRA, EPA is responsible for regulating the manufacture, labeling, sale, and use of pesticides. Under FFDCA, EPA determines the allowable level of pesticide residue in food.

- **Safe Drinking Water Act (SDWA)**. The SDWA has two principal programs: regulating public water systems and the quality of water they provide for human consumption, and protecting underground sources of drinking water from contamination (known as the "underground injection control" or UIC program).

- **Toxic Substances Control Act (TSCA)**. TSCA provides a framework for addressing threats to health and the environment from chemical substances. Under TSCA, EPA has authority to screen new chemicals, test existing chemicals, and place restrictions on the use of chemical substances that pose "unreasonable" health or environmental threats.

- **Emergency Planning and Community Right-to-Know Act (EPCRA)**. EPCRA establishes programs that impose reporting requirements on owners and operators of certain facilities that produce, store, or use toxic chemicals, or release them into the environment, and makes the reports available to the public.

- **Freedom of Information Act (FOIA)**. FOIA ensures that the public has access to information in the federal government's files. A member of the public can file a written request for information from the federal government. The government must respond within ten days saying how and when it will provide access to the documents (or stating why it will not provide such access). Many states have similar public access statutes.

CHAPTER 3:
Finding and Using the Right Tools in Environmental Laws

INTRODUCTION

This chapter discusses *categories* of legal rules and tools that are included in one or more of the environmental laws, with some specific examples of provisions that show how the rules and tools can help community residents concerned about environmental justice. This handbook provides only a brief introduction to the types of legal rules and tools available in environmental laws to promote environmental justice.

Once the basic types of legal provisions are understood, they can be applied in any situation using different environmental laws, as appropriate. Appendix A includes detailed charts identifying specific provisions of each environmental statute that fit within the same categories of legal requirements described below. Readers interested in a more extensive analysis of environmental justice opportunities found in environmental laws should read the ELI Statutory Analysis. References to the page numbers for general topics discussed in Part A of that publication are included in the following discussion. Specific statutory provisions are discussed in more detail in Part B of the ELI Statutory Analysis.

PUBLIC NOTICE AND PARTICIPATION REQUIREMENTS

An important initial task is to make sure you know what decisions and what events that affect your community have happened, or will occur, and when you have your chance to say something. The public notice and participation requirements of various environmental laws are extremely important in this early education process. They include public notice and comment requirements, opportunities for public hearings and meetings, and citizen advisory groups.

Public Notice and Comment

See ELI Statutory Analysis pp. 55-61, 64-65 for further details.

As a general but very important rule, government agencies are not allowed to make final decisions about polluting activities – whether in the form of regulations, permits, or other actions – without providing the public with reasonable notice and an opportunity to comment. The public can comment through letters, reports by experts, and in other ways. If an agency makes an important decision without providing proper public notice and an opportunity for comment, that alone may be a valid basis to challenge the decision legally.

This general requirement to provide notice to the public and an opportunity to comment applies to all federal agencies under a law known as the Administrative Procedure Act. However, specific provisions of the environmental laws also require public notice and comment, and some of those provisions invite comments addressing environmental justice issues in particular.

Public notice can come in many forms. Federal agencies like EPA often are required to publish notice of their proposed actions (along with information on when, where, and how the public can comment) in a daily publication called the "Federal Register." Copies of the Federal Register are available in many public libraries and online. Because the Federal Register covers every federal agency (from EPA to the Post Office) and literally thousands of specific actions every day, it is not an easy tool for most citizens to use to learn about actions that affect local communities. Many states have similar publications to advertise actions by state environmental and other agencies. Many types of actions and decisions also must be publicized in a newspaper of "general circulation" in the community, usually the major daily newspapers. This is most likely found in the "Legal Notices" or "Classifieds" section

of your local paper. The specific notice requirement in the relevant law or regulation will help you learn where notices are required to be given.

Obviously, keeping track of all possible decisions about an issue by all of the agencies involved can require a lot of attention. One way to make your job easier once you know about a particular issue or set of issues you want to track, and to avoid the time-consuming job of looking for newspaper or other notices, is to ask the responsible agencies to put you on a mailing list to receive copies of all public notices relevant to those issues and decisions. You can do this by calling the proper officials, but it is better to do it in a letter. Keep a copy so you can prove later that you did make the request and complain if the agency does not keep you fully informed.

The importance of taking advantage of these public notice, and especially comment, opportunities cannot be overstated. First, in many cases public officials cannot make informed decisions about your community if they do not know about your concerns and if they do not have the necessary information. For example, state water quality officials may be inclined to write water quality standards based on the "average" amount of fish eaten by most citizens. If you can provide information about higher amounts of fish caught from local polluted streams for subsistence purposes, you may be able to convince them to set stricter standards. An agency may assume that no one swims in particular waters because there is no public "beach," but you may know that local children swim or wade there every summer to keep cool. Similarly, if an agency does not know that many people in your community have asthma or other respiratory illnesses, they cannot take that into account in deciding whether to allow more air pollution in your area. Your community could begin tracking patterns of illness and disease to make it easier to provide useful information to the government when you need it.

Even if the agency ultimately makes a decision that you do not like, you are often not able to raise issues or to present information in court if you did not bring the information to the agency's attention before the decision was made. Therefore, providing extensive comments during the public comment period is essential.

You may also be able to improve the way that citizens are informed about existing or proposed new environmental risks. For example, you may find out that notices are published in the major daily newspaper, which is published only in English. If there is a large population of individuals who read a Spanish or other language community newspaper, you can request agency officials to provide bilingual notices in publications designed to reach more of the community at risk. Similarly, you can ask that public service notices be sent to television and radio stations broadcast in languages other than English. Even if language is not the issue, you may know that some parts of the population affected by environmental justice issues do not get their news from the newspaper. Many agencies have community involvement offices you can meet with to make sure that the right information gets out to affected communities in the right ways at the right time.

Examples of Public Notice and Comment Provisions in Environmental Laws

- **Major Federal Action (NEPA)**: When an environmental impact statement (EIS) is prepared before an agency reaches a final decision on a "major federal action," public notice is required at several stages, including the initial "scoping" of issues to be addressed in the EIS, issuance of the draft EIS, and when the final EIS is issued.
- **Water (CWA)**: Notice and an opportunity for public comment is required before a state, EPA, or the U.S. Army Corps of Engineers issues a permit for a new source of water pollution, or a renewed or revised permit for an existing pollution source.
- **Air (CAA)**: An opportunity for public notice and comment must be provided before the federal government enters into a settlement agreement for air pollution violations, as is required under several environmental laws.
- **Hazardous Waste (RCRA)**: Notice and an opportunity for public comment is required before a state or EPA issues a permit to treat, store, or dispose of hazardous waste.
- **Superfund (CERCLA)**: In the Superfund program, the public is entitled to notice of the proposed cleanup alternatives in a "major local newspaper of general circulation," and an opportunity to comment on those proposed methods.
- **Pesticides (FIFRA/FFDCA)**: EPA must provide notice and an opportunity for comment whenever it receives an application to register a new pesticide or a new use for an existing pesticide.
- **Drinking Water (SDWA)**: The state or EPA must provide notice and an opportunity for comment before granting a public drinking water system a variance (exception) from a safe drinking water standard, or issuing a permit for an underground injection well.
- **Chemical Substances (TSCA)**: EPA must provide public notice and an opportunity for comment before it regulates chemicals that pose an unreasonable threat.

Public Hearings and Meetings

See ELI Statutory Analysis pp. 55-61, 64-65 for further details.

Environmental laws often require or allow public testimony on important decisions to be taken at public meetings or public hearings. In some cases, opportunities for public hearings or meetings are provided automatically. In others, they are held only if enough people show community concern or interest. If it is not clear, and if you believe that having a public hearing is a useful way to organize community involvement and to make your case to the agency, you should always request that a hearing be held (again, preferably in writing and keep a copy of your requests). Your state may have specific requirements for requesting a public hearing, which you can find out by calling your state environmental agency. (See Appendix E for the phone number.)

There are several types of public events conducted by environmental agencies. A public "meeting" or "open house" may be designed as an opportunity for the public to learn more about important environmental issues or upcoming decisions, as opposed to an opportunity to testify or to present evidence. These meetings may include presentations by agency officials and tables with documents and literature about a project or issue. They provide a chance to ask questions in a more informal setting. It is useful to bring a specific list of information you need, and to make sure you get it or find out where to get it later. In some cases, agencies will allow community groups to set up tables or displays to distribute literature or to present positions on an issue, and to collect names and contact information of other sympathetic people who attend. Public meetings can therefore be a useful community organizing event, as well as an important source of information.

Other types of public meetings are known as "hearings," and come in two general forms. The first is an informal hearing at which any member of the public may speak about a particular issue or decision currently before the agency. As with public meetings, these forums provide an excellent opportunity to organize community support for, or opposition to, particular decisions. You can provide the agency with the arguments and supporting information needed to influence the decision, or to set the stage for later strategies and actions. In some cases, the agency may conduct more formal hearings that resemble trials before judges, where witnesses are sworn and evidence is considered using formal rules of evidence and procedure. It is likely that citizen groups will need an attorney to help them with this type of hearing, although in many cases

Examples of Public Hearing and Meeting Provisions in Environmental Laws

- **Major Federal Action (NEPA)**: The agency proposing a major federal action must hold a public hearing or meeting where substantial environmental controversy exists concerning the proposed action.
- **Water (CWA)**: A public hearing is required whenever states review and revise their surface water quality standards (required every three years), which include the uses for which rivers, lakes, and other water bodies will be protected (such as fishing or swimming), and the water quality needed to protect those uses. These hearings provide an opportunity to argue that subsistence fishing or other uses of concern to community residents should be protected.
- **Air (CAA)**: A public hearing should be held when a draft permit is written for a new or modified air pollution source, at which community residents can voice their concerns.
- **Hazardous Waste (RCRA)**: EPA must hold a public hearing if it receives written notice of opposition to the issuance of a hazardous waste treatment, storage or disposal permit.
- **Superfund (CERCLA)**: One or more public hearings or meetings are required in the community affected by a proposed cleanup of a Superfund program site. These hearings are an important part of local residents' communication with the government and property owners. At a public hearing or meeting, community residents can give their views on how much risk the community should face during and after the cleanup, and the potential uses of the site in the future.
- **Pesticides (FIFRA/FFDCA)**: When EPA proposes to cancel or modify the approval of a pesticide, any person "adversely affected" by the proposal may request that a public hearing be held. Other "interested persons" may participate in those hearings as well. These hearings are one example of trial-type hearings with witnesses and are run according to formal rules of evidence. They may be of particular interest to farm workers or others who are affected by pesticide uses.
- **Drinking Water (SDWA)**: Public hearings are required before a state can issue an exemption from a SDWA standard or treatment requirement, which requires a showing that there will be no "unreasonable risk to human health."

concerned citizens have learned enough about agency hearing practices to participate effectively without lawyers.

Whatever type of public meeting or hearing is conducted or required, it is very useful (if not essential) for you to know the ground rules in advance. This is information you should be able to obtain by calling the agency holding the event. For example, in some cases, members of the public must sign up in advance in order to testify, or are limited to specific time periods. It is frustrating to prepare ten minutes of testimony only to learn that each speaker is limited to five, or to miss the chance to testify altogether. In other hearings, people are heard on a first come, first served basis, in which case it is very useful to arrive early.

Citizen Advisory Groups and Other Forms of Participation

See ELI Statutory Analysis pp. 60-61 for further details.

EPA and some states are using more flexible approaches to making certain environmental decisions. These procedures are designed, in part, to help interested community members get involved in a decision early in the planning stages and to take part in developing and reviewing alternative approaches. Site-specific citizen advisory groups or similar informal problemsolving groups are not required under any environmental statutes, but have been authorized in some cases by policy.

The federal defense agencies (like the Air Force) have also implemented policies requiring technical review committees or citizen advisory boards to be created as a way of getting community input on hazardous waste cleanup decisions. The advantages of this type of process are not limited to hazardous waste issues. In some places, corporations have created citizen advisory groups around an operating facility to improve communications with the community, and to ensure that the company is aware of issues of concern that may not be directly addressed by environmental laws and regulations. You may be able to persuade the government or private industry in your community that creating this type of group would be helpful for better communication and better decisions.

Being involved in a citizen advisory group or other informal problem-solving process is one way to make other people aware of issues of particular concern to your community. This type of process is successful when it involves people who represent all potentially affected interests. Members of the group educate each other about what is important to them and explore the types of decisions or actions that can be taken to address everyone's concerns.

Examples of Citizen Advisory Groups and Other Forms of Participation Provisions in Environmental Laws

- **Drinking Water (SDWA)**: States should establish technical and citizens' advisory committees to assist them in developing their underground injection control programs.
- **Air (CAA)**: Any board or group that approves CAA permits or enforcement orders must have at least a majority of members who represent the public interest and who do not earn a signifi cant portion of their income from anyone regulated under the CAA. Most states have an Air Quality Board of some kind.
- **Hazardous Waste (RCRA)**: EPA's Expanded Public Participation Rule requires that applicants for a hazardous waste permit have at least one informal public meeting with the affected community before the permit application is submitted to the agency. In addition to opening a dialogue with the facility, community residents can take this early opportunity to gather information about what the facility's plans are.
- **Superfund (CERCLA)**: Community advisory boards or groups (CABs) have been created at some Superfund sites, although they are not required by the law. CABs should include a representative from each major segment of the community surrounding the Superfund site, and should meet regularly to give input on the investigation and cleanup process.

Some environmental statutes also require that someone from the "general public" or the community be a part of advisory groups that help the government set policy or make other decisions. The issues considered by these types of advisory groups are usually more regional or national in scope (not necessarily specific to your community), but they provide a potentially important opportunity for environmental justice concerns to be expressed and considered in government decisions. Participating in such advisory groups also allows you to network with other communities that share similar concerns or have experienced similar problems.

AVAILABLE INFORMATION

Environmental laws require the government, along with industry and others regulated by those laws, to collect many different kinds of information, and make much of it available to the public. Some of the information is about general environmental and health issues on a national or regional basis. Some of the information is about specific facilities or operations that are regulated under these laws, and their impact on the environment.

It is said that "information is power." A surprising amount of information is publicly available to help community residents learn about potential environmental issues in their communities, and to provide factual and technical support for their concerns. What is needed is the time and energy to find the information, read it, and figure out how it can help you.

This section describes the categories of information to look for. Because all of the many details about where to find this information cannot be provided in a handbook of this size, you should ask the relevant government agencies where to find the specific information you need or, if necessary, submit an appropriate FOIA request. (See summary in the next section.) If the information you seek does not seem to be available, check the legal tools in Section 3 (information gathering subsection) to see if the government can require someone to gather or create it, or if the government can require it to be made available to the public.

Freedom of Information Act (FOIA) (and similar state laws)

While not an "environmental" statute, the federal FOIA is an extremely valuable tool to get important documents and other information about environmental issues from federal government agencies. You do not always need to use FOIA as your first attempt to gather information. In many cases (discussed below), relevant information is automatically available to the public under provisions of various environmental laws without having to make a formal FOIA request (and then having to wait for a formal government reply). In other cases, you can get the information you need simply by calling or visiting the appropriate agency offices. If you have any reason to believe that all of the relevant information is not being made available, however, FOIA is a useful method to make sure, or at least to identify documents that have been withheld.

To use this tool, all you need to do is write a letter to the agency indicating that you are making a request under FOIA (it is helpful to use the formal citation to the statute in your letter: 5 U.S.C. § 552), specifying the information or category of information you need, and requesting a waiver of copying charges, if appropriate. (Please see the following web site for further information: http://www.epa. gov/foia/.) Always keep a copy of FOIA requests along with every response you receive. By law, the government is required to respond within a relatively short time (ten business days unless the agency can show that an additional ten days are needed due to "unusual circumstances"), either by providing the requested information or by explaining why documents will be withheld. The statute and court cases define the circumstances in which the government is entitled to keep documents from public view. You should not try to anticipate those exceptions in advance, however, because sometimes the government simply chooses to waive or ignore those "privileges." Ask for what you need, and see how the agency responds. Even when the government withholds documents, it is required to identify each document being withheld specifically, and to explain why it believes it is entitled to keep it confidential. Armed with this index of documents being withheld, you can decide whether to file an appeal of the decision or to bring a lawsuit in federal court (matters beyond the scope of this handbook, and which may require legal help).

While people who use FOIA get better at writing letters with practice, and while this handbook cannot serve as a complete guide to making FOIA information requests, a few quick hints may be useful. In some cases, you will know exactly what you need, in which case you should describe that information as specifically as possible so that you get what you actually want, and not just something similar. In many cases, however, you simply want to identify and review all of the information an agency has about a particular issue of concern. In those cases, you need to describe the subject matter of your request broadly enough to cover your needs, but not so broadly that the agency will be unlikely to cooperate fully (because the request is so difficult to answer), or that you get "the kitchen sink" back in the form of boxes and boxes of documents that may or may not be helpful. If you know the particular office or official where the documents you need are located, address your request to that office. If not, address it to the "Freedom of Information Act Officer" at the proper agency address. (See contact information in Appendices C and D.) If multiple offices of the same agency, or multiple agencies, have relevant information, it may be wise to send requests to all of them to make sure you get a complete response.

It is also critical to know that federal agencies normally are allowed to charge members of the public fees for copying relevant information, *with one very important exception*. The statute specifically requires agencies to provide information without charge or at a reduced fee (usually the former) "if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations and activities of the government and is not primarily in the commercial interest of the requester." Environmental justice groups and community residents should include in all FOIA request letters a paragraph describing the requesting organization or individual, why the information is

needed, and how it will be used for the public interest and not commercial purposes. Where appropriate, you should also include how it will be used to educate your members or the public at large about environmental justice issues and environmental issues in general. If the government office containing the information you have requested will not waive copying charges, ask them what the charges will be *before* they make any copies. You want to be able to decide whether to spend the money on copying or something else.

FOIA itself is limited to federal government agencies (along with certain "extensions" of the federal government, such as private consulting firms doing work for them). However, most states have similar statutes that apply to state, and sometimes local, agencies. You will need to identify the FOIA-type laws in your state, and how they may differ from the federal statute. Similarly, under many of the requirements for delegation to states of the federal environmental programs discussed in this handbook, states are required to make certain types of environmental information (such as pollution data collected under air and water quality permits and information about environmental violation) available to the public.

Clearinghouses/Databases

See ELI Statutory Analysis pp. 62-64 for further details.

Various environmental laws require EPA to create and maintain central clearinghouses or databases. Some of these central repositories are an effort to collect similar information from around the country in one place. Others contain data and information that EPA uses to make policy decisions. The information contained in clearinghouses and databases is generally available to the public and often accessible by internet. If easy access is not provided, copies should be available in accordance with FOIA requirements (see previous section). The information in clearinghouses and databases can be helpful in finding out whether similar situations to yours exist (in terms of health impacts, or types of discharges or emissions), and how they have been dealt with. They also often contain information gathered nationally, which the regional EPA offices may not have considered in any detail. You may be the only one who will ever review this information from your local perspective, and any relevant data that you find and make the government aware of could be useful to their decisions.

Examples of Clearinghouse/Database Provisions in Environmental Laws

- **Water (CWA)**: EPA, in cooperation with states and other federal agencies, maintains an online Index of Watershed Indicators site (also known as "Surf Your Watershed"), which provides detailed information about local watersheds around the country. Information about specific watersheds can be identified by clicking on a series of increasingly detailed maps, and includes a wide range of data and other information about watershed health and environmental threats. You can find out about which waters are impaired and undergoing restoration efforts; the identity and location of facilities that release toxic chemicals and what they release; the identity and location of Superfund sites, hazardous waste sites, community water sources, and permitted sources of air and water pollution; and the identity of other local citizen groups. http://www.epa.gov/iwi/

- **Air (CAA)**: EPA maintains an air toxics clearinghouse containing technical information on control technologies, risk assessments, monitoring and modeling, and emissions measurement techniques. http://www.epa.gov/ttn.atw. EPA has developed a National Urban Air Toxics Research Center which will undertake relevant medical research.

- **Superfund (CERCLA)**: EPA maintains a listing of all contaminated federal facilities, which is published every six months. It includes information about the extent of contamination at federal facilities and the progress of investigation and cleanup activities.

- **Pesticides (FIFRA/FFDCA)**: EPA, in conjunction with the Department of Agriculture, maintains a database containing annual reports on agricultural and non-agricultural pesticide use. http ://www.ams.usda.gov/science/pdp/index.htm

- **Drinking Water (SDWA)**: EPA maintains a national database of the occurrence of contaminants in public drinking water systems, whether or not they are regulated. This information could be used to determine whether contaminants found in your drinking water supply are unique to your community or more commonly found.

- **Chemical Substances (TSCA)**: EPA sponsors the National Lead Information Center, which contains information on adverse health effects, sources of exposure, and abatement and cleanup options for lead-based paint and other lead-related hazards. http://www.epa.gov/lead/nlic.htm

- **Toxic Chemicals (EPCRA)**: The Toxics Release Inventory (TRI) contains data submitted to EPA annually about a facility's releases of toxic chemicals into the environment. This is an excellent source of information about chemicals that are present in your community, and gives some approximation of cumulative exposures. http://www.epa.gov/tri

Public Education

See ELI Statutory Analysis p. 64 for further details.

Some environmental statutes require EPA to develop materials or information to educate the public at large about health or environmental issues. Community residents can use this information to educate themselves and their communities on relevant issues. As with clearinghouses and databases, some of this public education material can also help you identify potential environmental risks in your community. These materials should, by definition, be available to the public. You should ask your regional EPA office where to find this information if you think it might be helpful to you, or if necessary, file a FOIA request, as discussed earlier.

Facility Monitoring Data and Recordkeeping

See ELI Statutory Analysis pp. 42-43 for further details.

Virtually every environmental permit requires the permittee (person holding the permit) to maintain records about their compliance with the permit's requirements, and often to conduct periodic monitoring of any discharges or emissions into the environment to ensure that they meet all standards set in the permit. Depending on the permit, the permittee may keep these records or monitoring data at their facility, or they may be required to submit them periodically to EPA or a state environmental agency. Once the information is submitted to EPA, it should be publicly available at agency offices, and if not, through FOIA, as discussed earlier. For information which the permittee retains on-site, such as emergency planning documents, you can make a request directly to the permittee. Although permittees are not legally required to provide the information to you directly, they may decide to do so voluntarily.

In addition to providing interesting information about permitted operations within your community, a facility's monitoring data and recordkeeping can provide the basis for legal action to enforce violations of environmental laws. For example, if a facility's monthly water discharge monitoring reports (DMRs) show that its water discharge exceeds the pollutant limitations found in the permit, this could support an enforcement action by the government or concerned citizens. Likewise, if a permitted facility does not submit its DMRs on time, or at all, this also could support an enforcement action, an assessment of civil penalties by the government, or an enforcement action by concerned citizens.

Examples of Public Education Provisions in Environmental Laws

- **Air (CAA)**: States notify the public annually about which areas in the state have exceeded national ambient air quality standards in the past year. Notice can be provided in a variety of ways, including warning signs, TV, radio, or press notices.
- **Superfund (CERCLA)**: The Superfund statute anticipates that facilities that release hazardous substances into the environment will provide notice to any person potentially injured by the release. In some circumstances, EPA itself provides public notice of hazardous substance releases in local newspapers.
- **Superfund (CERCLA)**: ATSDR maintains a list of toxicological profiles for hazardous substances found at Superfund sites. http://www.atsdr.cdc.gov/toxpro2.html
- **Pesticides (FIFRA/FFDCA)**: Worker protection statements and instructions for safe use must appear on pesticide labels.
- **Drinking Water (SDWA)**: Community water systems (those serving 25 or more year-round customers) must mail an annual report to their customers outlining the level of contaminants in the drinking water system.
- **Chemical Substances (TSCA)**: EPA has developed various lead hazard information booklets, some of which are revised periodically. http://www.epa.gov/lead/403FS01.pdf and http://www.epa.gov/lead/leadpbed.htm
- **Toxic Chemicals (EPCRA)**: Local Emergency Planning Commissions provide annual public notices in the local newspaper identifying where the public can view information submitted by facilities within the community about the toxic chemicals they use or store on-site, and where they can review emergency response plans.

Agency Inspections

Most environmental permits grant the issuing agency the authority to enter the permitted facility to inspect whether the operation is being conducted in compliance with the permit's requirements. This usually includes the authority to take samples. In addition to giving you information about whether the permitted facility might present a health or safety threat to your community, inspection results can form the basis of government or citizen enforcement action.

Government inspection reports are public documents. However, the agency may be able to withhold them if they fall under the exceptions to FOIA (for example, if they would interfere with enforcement actions, prevent fair trials, or disclose confidential sources). Facility inspections may provide community residents many greater opportunities, however, than the information provided in the inspector's written reports. The possibility exists that agency inspectors will allow a concerned citizen to accompany them on a facility inspection, and you should feel free to ask for that opportunity. Whether or not you can accompany the inspector, you may be able to get part of any samples the inspector takes (called split samples) for you to have analyzed in a lab of your choosing (and at your own cost). Also, there is the possibility that an agency or a permittee will grant concerned citizens the right to conduct facility inspections on their own (without the government coming along). While these citizen inspection possibilities are not guaranteed, and may be rather unique, there is no harm in asking. Any information you gather during an inspection that you participate in would be available for your use.

Virtually every statute that provides for issuing permits includes some inspection authority. These are identified in the statutory summaries in Appendix A under the heading "Available Information . . . Agency Inspections."

Reporting

See ELI Statutory Analysis pp. 43-45 for further details.

A previous section described a permittee's obligation to maintain records and monitoring data, and in some circumstances to report that information regularly to the permitting agency. Several environmental statutes require facilities, even those without permits, to report information that will help the government protect public health (usually reports of spills and accidental releases of oil and chemicals) or that will

Examples of Facility Monitoring Data and Recordkeeping Provisions in Environmental Laws

- **Water (CWA)**: Facilities that receive permits under the CWA must monitor their discharges to waterways, and keep records of whether they are meeting the pollutant limits set in the permit. Monthly DMRs, which contain the self-monitoring results, should be sent by the facility to the permitting agency. Quarterly Non-Compliance Reports (QNCRs), which identify each day on which the pollutant limits of the permit were not met, should also be sent by the facility to the permitting agency.

- **Air (CAA)**: Facilities wanting to locate in an area that is currently meeting national air standards must monitor ambient air quality for a specified period of time and submit the monitoring data with their air permit application. The ambient air monitoring data must be made available at the public hearing held on the permit application.

- **Air (CAA)**: Solid waste incinerators must monitor their air emissions, and make the monitoring results available for public inspection and copying during business hours.

- **Air (CAA)**: Facilities that emit hazardous air pollutants into the air must develop a risk management plan to reduce the possibility of accidents. Potential consequences of hazardous air pollutants moving across the facility property line must be considered. The risk management plans should be made available to the public at the facility during business hours.

- **Hazardous Waste (RCRA)**: The movement of hazardous waste must be documented on a manifest form. The form is signed by the generator of the waste when the waste is given to the transporter, by the transporter when it accepts the waste, and by the ultimate disposal facility when it receives the waste. All entities handling the hazardous waste during its movement must maintain copies of the manifest.

- **Superfund (CERCLA)**: EPA can require a property owner to provide information or conduct monitoring about releases or threats of releases of hazardous substances on their property.

- **Pesticides (FIFRA/FFDCA)**: Certified applicators of restricted-use pesticides must maintain detailed pesticide application records. These records are available to federal or state agencies on request.

- **Drinking Water (SDWA)**: Public water systems must regularly sample their systems for the presence of unregulated contaminants. Users of the water system must be notified of the sampling results.

- **Chemical Substances (TSCA)**: Manufacturers and processors of chemicals must keep records of any significant adverse reactions allegedly caused by the chemical or any mixture containing that chemical. EPA may request such records from the manufacturer or processor.

inform the surrounding community about how much potentially polluting material is found and where. This second type of information can and should be used by state and local governments, including fire departments, to develop community-wide emergency response plans to protect their citizens from potential health effects in the case of a catastrophic occurrence in the community (such as a facility fire or a tornado or hurricane).

All information provided in these types of reports can be used by community residents to develop an understanding of the various ways in which community members may be exposed to harmful substances, to advocate for better emergency response plans and requirements (including adequate public notice in the event of an accident or release), and to support arguments that the cumulative impact from multiple sources must be considered in any given decision. Collecting this information and putting it into an environmental justice context may help government decision makers, who have access to the same information but probably do not look at it with the same local focus that you do.

The types of reports covered by this section should be publicly available under the specific provisions of environmental statutes (or FOIA) since they are information submitted to a government agency (although there are limited exceptions for trade secrets and other confidential business data). If this handbook does not identify how to access a specific report that you are interested in, it would be best to ask the agency that is supposed to receive the report about how and where to get it. Some reports may provide information that could be particularly helpful in assessing cumulative exposures.

Local Information Repositories

The Superfund statute requires public information about a Superfund cleanup

Examples of Reporting Provisions in Environmental Laws

- **Water (CWA)**: States report to EPA every two years about the state of water quality within their state, and the progress being made to meet water quality goals. This information can be useful to see if there are disproportionate water quality impacts within the state.

- **Air (CAA)**: Facilities operating under a Title V CAA air permit must monitor their air emissions and promptly report any deviations from permit requirements, the probable cause of the deviation, and any corrective action taken to address or prevent the deviation.

- **Hazardous Waste (RCRA)**: Generators of hazardous waste must file reports with EPA or the state every two years that describe how much hazardous waste they have generated, how it was disposed of, and what waste minimization program they have in place.

- **Superfund (CERCLA)**: Under Superfund, anyone who releases more than a "reportable quantity" of hazardous substances into the environment must immediately notify emergency officials that a release has occurred. The oral notification must be followed up with a written notification.

- **Pesticides (FIFRA/FFDCA)**: Certified pesticide applicators must file reports with the state or EPA describing where and when they applied which pesticides.

- **Drinking Water (SDWA)**: Community water systems (those serving 25 or more year-round customers) must mail an annual report to their customers outlining the level of contaminants in the drinking water system. All public water systems must notify their customers when they violate applicable requirements or find unregulated contaminants in the drinking water. Notice must be given to customers within 24 hours if there is potential for serious adverse health effects from short-term exposure.

- **Drinking Water (SDWA)**: Public water systems file annual reports with EPA and the state about violations of the SDWA during the past year. http://www.epa.gov/safewater/dwinfo.htm

- **Chemical Substances (TSCA)**: Facilities that manufacture or import toxic chemicals must submit annually a form that contains information about how much of the chemical was produced, how much was lost to the environment during production, the number of releases to the environment, and the number of workers exposed during releases. These "PAIR" forms can be reviewed through EPA's TSCA docket (202-260-7099).

- **Toxic Chemicals (EPCRA)**: Facilities that store or use toxic chemicals must notify the State Emergency Response Commission and/or the Local Emergency Planning Commission, which will develop emergency plans on the basis of this information. Facilities must also submit chemical-specific information to the state and local emergency planning entities, average daily amounts of the chemicals on-site and reports of any toxic chemical releases. A listing of State Emergency Response Commissions can be found at http://www.epa.gov/ceppo/serclist.htm. A list of Local Emergency Planning Commissions can be found at http://www.epa.gov/ceppo/lepclist.htm.

to be maintained near the Superfund site in a "local information repository." This is usually at a library, which sets aside a shelf (or more) to hold the many documents that are generated in the course of investigating the environmental conditions at the site, the possible cleanup alternatives, and the selection of the cleanup alternative that will be implemented. The information in a local repository should be indexed.

Keeping public information at a location within the community, rather than at the EPA regional or state agency offices in some other city, can help community residents maximize their involvement in the decisionmaking process. Not only is there less travel time and cost for getting the information, you can spread the work load by having more than one person involved in reviewing the information. Community residents can ensure that local repositories fully meet the purposes they are designed for – increasing community input into the decisionmaking process – by suggesting any additional steps the government could take to make the information more understandable to the particular community affected. Suggestions might include translating some materials into different languages, or creating summaries of significant documents in less technical language. Also, if any of the public information is in digital format, you can ask the government to select a local repository that offers free computer access to "read" that digital information, and to provide instructions on how to "read" it.

Even if a particular law does not require public information to be kept at a local repository, you could ask the government (or companies) to provide a local repository in cases where there is significant community interest about an upcoming environmental decision.

Executive Order on Environmental Justice, issued by President Clinton, February 1994

Executive Order 12898 directs each federal agency to "make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations." Agencies must accomplish this goal "[t]o the greatest extent practicable and permitted by law." The Executive Order further requires each agency to conduct its programs, policies, and activities in such a manner that they "do not have the effect of" discriminating against individuals or subpopulations based on their race, color, or national origin. An accompanying memorandum directs federal agencies to assure that their programs do not run afoul of the anti-discrimination requirements of Title VI of the Civil Rights Act.

LEGAL RULES AND OPPORTUNITIES

The federal government makes hundreds of environmental decisions every day. Some have nationwide impact and some affect an individual community. No summary can include all these decisions, and no one community resident can become involved in each one. This section on legal rules and opportunities identifies the major types of possible government actions and highlights particular ones in which environmental justice concerns may be most relevant and have the greatest impact.

While most of the legal rules and opportunities discussed below are created by specific environmental statutes, all federal agencies are also bound by an Executive Order on Environmental Justice issued in 1994. This Executive Order requires all federal agencies to identify and address disproportionate impacts on communities of color and low-income communities when administering environmental and other programs.

When you start to think about an environmental problem in your community, you can consider which of these types of decisions might apply to your situation, and decide which ones will help you and your community have the greatest impact in addressing your concerns.

Standard Setting

See ELI Statutory Analysis pp. 5-11 for further details.

Many environmental statutes authorize EPA to set standards for what pollutants or contaminants can enter the environment in what ways and at what levels. These standards are generally set at the national level, and are applied according to certain rules to an individual facility or situation. For example, national drinking water standards establish the level of contaminants that makes for "clean" drinking water (such as the recently controversial rules on how much arsenic is allowed in public water supplies). These national drinking water standards apply to every water supply in the country (with some variances or exemptions allowed). When a new public drinking water supplier wants to get a permit and open for business, its ability to provide "clean" water for your community will be determined in part using these national standards. The same is true for facilities that discharge pollutants into the air and water.

National standards, therefore, govern the types and amounts of contaminants that facilities in your community can put out into the environment. Some of the standards have not been set yet, and many are subject to review every

several years. In setting the national standards, EPA makes many assumptions, including assumptions about the type of lifestyle in the average surrounding community (how much fish people eat in a year, for example), or the nature and amount of pollutants from other sources to which the average citizen is exposed. It is important that communities provide EPA with information that ensures that the assumptions the agency uses in setting or reviewing these standards are realistic and protective of human health.

Getting involved in national standard setting that does not immediately affect your community may be a lot of work for local community residents acting alone. However, community-specific information could in the long run change the rules that apply to facilities in your community to be more protective of public health and to reflect the environmental and health conditions that residents face on a daily basis. National or regional environmental justice organizations, or coalitions of local groups, are therefore more likely to become involved in standard setting proceedings, but providing local information and grassroots support can help them to be successful. By becoming involved in national standard setting, local communities can also help to prevent future unhealthy situations in other communities.

Rulemaking

See ELI Statutory Analysis pp. 5-6 for further details.

The broad policies and requirements set out in environmental laws are made more specific through regulations; the process of drafting and finalizing regulations is often called "rulemaking." (The standards discussed in the previous section are also adopted as regulations.) For example, the Clean Water Act requires anyone discharging pollutants into a stream to have a permit. The regulations enacted under

Examples of Standard Setting Provisions in Environmental Laws

- **Water (CWA)**: States, or where they fail to do so properly EPA, issue water quality standards for rivers, lakes, and other surface waters. Those standards identify the "designated uses" for which those waters will be protected, and the levels of water quality for various pollutants and other water conditions necessary to protect those uses (known as "water quality criteria"). Community residents can provide information on the actual uses of water bodies in their communities (such as fishing, swimming, or in some cases raw water consumption), which may demand more protective uses and standards. They can also argue for more protective water quality criteria based on cumulative exposure and other health factors.

- **Air (CAA)**: For a small number of the most important air pollutants that occur almost everywhere in the country, EPA establishes "national ambient air quality standards" which define how much pollution can be in the air from all sources combined. However, those standards must address the ways in which different pollutants combine and interact, provide an "adequate margin of safety," and address health risks to "sensitive citizens." Local community residents can work with national groups in bringing information relevant to those issues to EPA's attention during these national rule makings. The last time EPA revised its national air quality standards for two key pollutants, it held public hearings in different cities around the country.

- **Air (CAA)**: EPA also establishes national control requirements for a much larger number of hazardous air pollutants, based largely on the technology available to control that pollution from various sources. However, as part of its Urban Air Toxics Program, EPA is also required to evaluate and address the health effects of urban pollution "hotspots," where hazardous air pollution is highly concentrated in small areas, and where cumulative impacts from many pollutants are of concern. Because EPA has not completed this analysis around the country, community residents have a key opportunity to collect and provide EPA with information on these hotspots, and on particular health concerns in those areas.

- **Drinking Water (SDWA)**: EPA establishes drinking water standards for public water systems, with maximum contaminant levels or treatment methods based on impacts to human health. As part of this process, EPA is supposed to consider health threats to subpopulations that are likely to be at greater risk than the general population. Community residents can provide EPA with information about the health effects of contaminated drinking water in their communities, especially considering such factors as existing health problems and cumulative exposure to toxic materials (including those present in aging drinking water supply systems).

- **Chemical Substances (TSCA)**: EPA has the authority to regulate the manufacture, processing or distribution of chemical substances that present an "unreasonable risk" of injury to health or the environment.

- **Superfund (CERCLA)**: EPA periodically revises the National Contingency Plan that establishes procedures and standards for responding to releases of hazardous substances. The plan includes methods and criteria for determining the appropriate extent of cleanup actions.

Examples of Rulemaking Provisions in Environmental Laws

- **Water (CWA)**: In order to implement the water quality standards discussed in the previous section, states or EPA are required, for contaminated waters, to divide the amount of pollution that is allowed among various pollution sources (a process known as "total maximum daily loads," or TMDLs). Because this rulemaking process dictates where higher amounts of pollution may be released into a particular water body, community participation may be important for raising concerns about disproportionate impacts.

- **Air (CAA)**: States (or EPA when a state fails to do so properly) are required to adopt "implementation plans" (known as state implementation plans [SIPs], or federal implementation plans [FIPs]), to ensure that the national air quality standards are met in particular regions around the country. As with TMDLs, these plans dictate how much pollution is allowed from particular sources in particular locations. Community residents can be involved in those decisions to prevent the concentration of higher emissions in particular communities.

- **Hazardous Waste (RCRA)**: EPA has spent years trying to develop a system to identify which industrial and other wastes should be classified as "hazardous," and therefore subject to stricter environmental regulation. In identifying hazardous wastes, EPA is supposed to consider factors such as "toxicity, persistence, and degradability in nature, potential for accumulation in tissue, and other related factors . . . ." Information about high levels of exposure or cumulative risks in particular communities can influence EPA's decisions about whether a particular type of waste should be designated as a hazardous waste.

- **Superfund (CERCLA)/Toxic Chemicals (EPCRA)**: EPA establishes recordkeeping and public reporting requirements for industries that use, store, or release more than specified amounts of certain substances that are "hazardous" and "extremely hazardous" to the environment. EPA has the authority to identify the types of facilities, the particular substances, and the "threshold quantities" of those substances covered by the program. Community residents may have information or concerns about chemical uses and releases at particular facilities in their communities, which might influence EPA's decisions about what to include in the program.

- **Pesticides (FIFRA/FFDCA)**: EPA establishes labeling requirements to protect workers and others who may use dangerous pesticides. Labels can address not only safe handling practices generally, but also limitations about specific pesticide uses and warnings against use in certain areas. Community residents may be able to persuade the agency to establish warnings against particular uses or locations where there have been repeated or particularly high previous exposures, where there are multiple health risks, or near particularly sensitive populations. In addition, EPA can require that labels be printed in multiple languages, an issue that may be of particular concern to some farm worker communities.

- **Drinking Water (SDWA)**: EPA makes rules that guide states in protecting underground sources of drinking water from the underground injection of contaminants. The underground injection program is implemented primarily at the state level.

- **Chemical Substances (TSCA)**: EPA has the authority to regulate the manufacture and use of any chemical substance it has a "reasonable basis to conclude" may present an unreasonable threat of injury to health or the environment. In making those decisions, EPA is required to look at cumulative effects of multiple chemicals. Where insufficient information is available to make a determination of a chemical's possible health effects, EPA may require additional testing. To reach these conclusions, EPA needs information about how members of particular communities are exposed to chemicals and in what amounts. EPA should also hear about cumulative exposures in a community, and other health effects.

the Clean Water Act provide further details on what a facility must do to qualify for a water discharge permit.

Regulations provide two types of opportunities for community residents. You can become involved while regulations are being written to ensure that environmental justice concerns are considered by the agency in developing its rules. Or, you can study the regulations to ensure that all relevant environmental requirements are being satisfied by the facilities operating within your community. You will want to use this knowledge about what the requirements are to guide your participation in agency decisionmaking, and to help you decide whether legal action to enforce the requirements is necessary or likely to be successful.

Regulations are adopted by agencies such as EPA after the agency has given notice to the public and received public comment about the draft regulations. When finalized, federal regulations are found in the Code of Federal Regulations (available at most public libraries and at law libraries, and online at web sites such as http://www. access.gpo.gov/nara/cfr/). States have a similar process and code for regulations issued under state environmental statutes.

Permitting and Other Approvals

See ELI Statutory Analysis pp. 13-20 for further details.

The decision whether to grant a permit (or a variance or exemption from requirements) for an individual facility is the agency decision where environmental justice issues have arisen most often. It is during this site-specific review of operations that considerations of cumulative exposure (exposure to multiple sources of contamination or health risk) and sensitive subpopulations (increased incidence of asthma, for example) are most likely to be considered and dealt with in the agency's decision. Community participation is very important, since agency staff may not be familiar with their legal authority to consider these types of community-specific issues in deciding on whether or not to issue a permit.

Community residents need not limit their input on permits and other approvals to the public notice and comment period offered by the agency. For some permits and approvals, no such public notice and comment period is required or offered. Even for those where it is required, this official opportunity for public comment comes late in the decisionmaking process – after a draft permit or approval has already been written. You are much more likely to be effective if you present your environmental justice-specific information to the agency soon after a permit application has been submitted, so that the draft permit or approval can be written with all relevant facts in mind. Meetings and conversations with agency officials can be very helpful, but all important information should also be submitted in writing. While this handbook deals only with permits and approvals required under federal environmen-

Examples of Permitting and Other Approval Provisions in Environmental Laws

- **Air and Water (CAA and CWA)**: Permits are required from states or from EPA for new or modified sources of air and water pollution. Those permits must require the facility to use pollution prevention or treatment methods ("best treatment" available for that type of facility), and to reduce pollution to levels needed to ensure that air quality and water quality standards are met. While "best technology" requirements are usually set at uniform national levels, differences in how they are applied at individual facilities can result in higher or lower levels of pollution. Moreover, stricter control requirements can be imposed if needed to meet local air and water quality requirements. This may not occur unless community members insist that those issues be addressed. Community residents can also request that permits include other requirements that may help them to identify the actual, long-term impacts from a facility, such as stricter or more frequent monitoring and reporting requirements. The additional information can highlight whether changes in the permit need to be made, and can ensure compliance down the road.

- **Hazardous Waste (RCRA)**: Permits from EPA are required for all new facilities that treat, store, or dispose of hazardous wastes. While the law governing those permits imposes no specific environmental justice requirements, EPA has broad authority to impose requirements "necessary to protect human health and the environment." EPA interprets this language as allowing it to consider environmental justice concerns. These requirements include aggregate and cumulative health risks, and effects on sensitive populations. Community residents can raise those concerns when new hazardous waste facilities are proposed, especially where other sources of environmental risk already exist in the affected community, or where a disproportionate number of these facilities are already located in communities of color or low-income communities.

- **Pesticides (FIFRA/FFDCA)**: Most new pesticides must obtain a "registration" from EPA prior to manufacture and sale. In deciding whether to register a pesticide, EPA must find that it "will perform its intended function without unreasonable adverse effects on the environment," and EPA may classify a new pesticide either for general use or with restrictions on its manner and location of use. EPA can consider impacts to particular communities or subpopulations in making those decisions. While it may be difficult for local community residents to participate in, or even to know about, these national registration procedures, they can work together or with national organizations to inform EPA about threats to particular workers or communities.

- **Drinking Water (SDWA)**: Some public water systems can obtain variances or exemptions from public drinking water standards under certain circumstances, provided they will comply with the standards over time. One possible reason for such an exemption is to accommodate the economic concerns (increased costs of treatment) in "disadvantaged communities." However, such communities may also face cumulative health risks that justify more protection, not less. You can present information about potential harm to community members who drink a lot of contaminated water, and who cannot protect their health by buying expensive home filters or water from alternative sources. You can also suggest better options such as targeted grants or loans to help small, economically disadvantaged communities to meet existing standards more quickly, even if a variance or exemption is issued.

- **Chemical Substances (TSCA)**: Manufacturers of an unlisted chemical must provide a pre-manufacture notice to EPA at least 90 days before beginning to make the new substance. If EPA does not react within 90 days, it is presumed that the manufacture of the unlisted chemical is approved. If EPA does act within 90 days, it can prohibit the manufacture of the new chemical or restrict its use.

tal laws, any potentially polluting activity may also require state or local permits and approvals. Environmental justice issues may also be relevant under zoning and other local government reviews.

Siting

See ELI Statutory Analysis pp. 15-17 for further details.

Siting of new facilities that pose environmental risks raises important issues of environmental justice. Unfortunately, the location of a facility does not always have to be considered in decisions made under environmental laws. It is generally left to local zoning authorities to decide where certain types of facilities should be located. Nevertheless, federal environmental laws do allow for the consideration of siting issues in certain key decisions.

Even in situations where the agency does not have the specific authority to disapprove the siting of a facility, community residents can often use the same information they would use to argue against siting in their community to request more protective permit conditions. For example, in a community in which multiple factories already discharge into air and water, a new proposed factory will further increase the pollutant load on the river in which community members fish regularly. The Clean Water Act requires the permitting agency to deny a water discharge permit based on this information if discharge would cause violations of water quality standards (including requirements that clean water not be made dirty, known as "antidegradation"). Therefore, the agency should consider the information about existing pollutant loads to the river and community uses of the river in deciding whether to issue the permit, or in setting the level of pollutants the new factory will be allowed to discharge. It is possible that this information could change the cost-benefit analysis for the new factory (increase the costs, decrease the benefits), causing the company to rethink whether your community is the best location for their new facility. Even if this does not happen, highlighting the information about existing environmental exposures in the community should help the agency write a permit that is more protective of your community's health.

Cleanup Decisions

See ELI Statutory Analysis pp. 149-176 for further details.

Not all environmental laws deal with preventing pollution from new facilities. Several provisions address when and how to clean up contamination left

Examples of Siting Provisions in Environmental Laws

- **Major Federal Action (NEPA)**: All environmental permits or approvals that constitute a "major federal action" are subject to the requirements of NEPA (discussed below), which requires (among other things) that all reasonable alternatives to the proposed action, including alternative locations, be considered fully. Community residents can use this opportunity to identify alternative locations that may have fewer or less serious impacts on communities that already face disproportionate environmental threats, or locations that pose less threat to all communities.

- **Water (CWA)**: Permits may not be issued for discharges of dredged or fill material into surface waters, including wetlands, if there is a "practicable alternative" with less impact on the aquatic environment. Community residents may have particular interest in these decisions, especially in certain areas. For example, wetlands and other waters may support fish and wildlife populations used by communities for subsistence or commercial hunting and fishing purposes; they may filter pollution to keep other waters clean for drinking water and other uses; and they may prevent flooding in communities located near adjacent water bodies. Such discharges and filling of important water bodies can be prevented if the permitting agency (the Army Corps of Engineers or some states) is provided information about viable alternatives, such as conducting the activity in another location (possibly one in which no filling is needed).

- **Air (CAA)**: Special procedures are required before a major new source of air pollution is allowed. In areas in which air quality standards are already violated, new source permits may be issued only after the agency evaluates alternative sites for the facility (along with production methods and pollution control techniques), and only after a showing that the benefits from the proposed new source will be greater than the environmental and social costs. Community residents can play a key role in documenting the environmental and social costs of a major new source of air pollution, especially in terms of economic, human health, and quality of life costs imposed on communities that already face high levels of environmental or other health threats.

- **Hazardous Waste (RCRA)**: EPA has developed location standards that may limit the siting of hazardous waste treatment, storage, and disposal facilities. Community residents can provide helpful information about pre-existing levels and areas of pollution, and common uses of the property where a new or expanded facility will be built. This can help the state or EPA decide whether a proposed hazardous waste activity will be sited appropriately.

behind from past activities. Community residents may become involved in these programs in several ways. There could be property in your community which you suspect is contaminated, and you want the government to investigate it and get it cleaned up. Property in your community may have been designated a "Superfund site," and you want to make sure that the cleanup is done well and fully protects your community members' health. Your community leaders may be redeveloping a part of town under a "brownfields" program designed to convert hazardous waste blights into community assets. You want to make sure that these types of sites are cleaned up (and not just covered over) and that the future uses of redeveloped property do not present any continuing health threat to individuals. (Brownfields cleanups are often accomplished under state laws, which are not covered in this handbook. For further information on brownfields cleanups, look at http://www.epa.gov/brownfields/.)

Community acceptance of a cleanup approach is a factor the government must take into account in deciding how to clean up, at least under the Superfund program. The same is often true for brownfields cleanups. This gives community residents the opportunity to influence many aspects of a cleanup. How large an area should be included? How clean is clean? What will the cleaned-up property be used for? Who will be responsible for long-term monitoring of the cleaned-up site, and for fixing any problems discovered after cleanup has been completed?

The process of deciding how to clean up a contaminated property is long and has many steps. Community residents can provide relevant information to the decision makers during every step of the process. When the government is deciding whether a particular site should be cleaned up or not, community health and environmental justice concerns may tip the scales in favor of a cleanup. When investigations are underway to determine what contamination may be at the site and who might be responsible for it, community knowledge of past activities at the site can prove helpful to the government. When the government is developing alternative cleanup options, community opinion about how the land should or will be used in the future will be an important factor in deciding between alternatives, and in deciding how protective the cleanup options need to be. For example, if no one will be using the groundwater as a drinking water supply, the government may consider a no-treatment alternative as protective of human health. This is also the point at

Examples of Cleanup Decision Provisions in Environmental Laws

- **Hazardous Waste (RCRA)**: EPA can require "corrective action" at existing hazardous waste treatment, storage, and disposal sites as a condition of receiving a permit to continue operating. This includes the requirement to clean up past pollution, both on the site itself and "beyond the facility boundary where necessary to protect human health and the environment . . . ." This is of interest to community residents because it applies to a large number of older sites that existed before the federal hazardous waste law was in place, but which cause serious ongoing pollution. Further, because pollution from these sites has gone on for so long, and because the risk of some health effects from environmental pollution increases with the length of the exposure, the long-range, cumulative health effects on community members may be high.

- **Superfund (CERCLA)**: While the federal Superfund program has identified contaminated sites for cleanup all over the country, action at those sites is based on a system of priorities designed to clean up the worst sites first. Two of the factors EPA must consider in setting cleanup priorities are: 1) contamination of public water sources, and 2) the results of "health assessments" conducted to evaluate community health issues. Community residents can provide information on community health threats in order to get quicker action at sites in their communities. Emergency action may be taken where there is an "imminent and substantial danger to the public health or welfare" at a particular site.

- **Superfund (CERCLA)**: Once EPA decides to proceed with cleanup at a Superfund site, it has a wide range of cleanup options available, from simply covering the site with clean soil (known as "capping") and restricting future site uses, to more expensive remediation involving actual waste treatment. The statute directs EPA to prefer cleanup methods that permanently protect human health and that treat the hazardous substances. EPA should also consider bioaccumulation (chemicals being stored in the body for long periods of time) and other factors that affect long-term community health and welfare. However, because total program cleanup funding is limited (although at many sites cleanup costs can be collected from parties responsible for the contamination), and because of pressure to reduce overall program costs, community residents may want to evaluate proposed cleanup methods carefully.

- **Chemical Substances (TSCA)**: EPA has the authority to intervene if asbestos in public schools poses an imminent and substantial endangerment, and if local authorities are not taking sufficient action to protect students and school staff from those risks. Especially in communities with aging schools (built when asbestos was still used routinely for fire prevention), residents may want to know the degree of risk posed by those materials. EPA can be asked to take appropriate action if local authorities fail to act to eliminate health risks.

Examples of Information Gathering, Monitoring, and Inspection Provisions in Environmental Laws

- **Water (CWA)**: EPA or the state can conduct inspections or water monitoring at permitted facilities using its own staff or "authorized representatives." Although unusual, community residents may request EPA or the state to designate a community member as an "authorized representative" to accompany government inspectors or to enter a permitted facility on their own.

- **Air (CAA)**: Under most environmental permits issued by EPA and the states, the permit-holder is required to conduct routine sampling and monitoring, and to report results to the agency. The agencies are generally required to make this information available for public inspection. In addition, agencies have broad authority to conduct their own inspection and monitoring of facilities subject to pollution permits, and generally to make this information publicly available as well.

- **Hazardous Waste (RCRA)**: EPA can ask ATSDR to conduct a health assessment at any hazardous waste land disposal facility. One way that EPA can be made aware of the need for a health assessment is through information submitted by the public that a release of, or exposure to, a hazardous substance has occurred.

- **Superfund (CERCLA)**: EPA can ask ATSDR to conduct a health assessment at hazardous waste sites that may pose "a substantial potential risk to human health." Such assessments can provide invaluable information to community residents about health effects from a particular site and related issues about how people are exposed to toxic chemicals and their impacts, as well as multiple sources of contamination and cumulative health impacts. Health assessments can also be requested by persons or by doctors who believe that exposure to hazardous substances has occurred. (Please see the following web site for further information on petitions for public health assessments: http://www.atsdr.cdc.gov/HAC/petition.html.)

- **Superfund (CERCLA)**: In the Superfund program, EPA has broad authority to ask for information, inspect facilities and documents, and take samples at sites where there is a reasonable basis to believe there is a release or a threat of a release of a hazardous substance. If community residents believe that such releases or threats exist, and especially if they are not regulated or controlled under some other environmental program or permit, they can ask EPA to investigate using this authority, and to provide the information obtained to the public.

- **Pesticides (FIFRA/FFDCA)**: EPA can request additional information to support the continued registration of pesticides about which there is cause for concern, and can conduct monitoring of people, animals, and other parts of the environment to assess levels of pesticide exposure and their effects. Groups who represent workers or communities who may display adverse health effects from use of a particular pesticide can ask that this information be collected.

- **Chemical Substances (TSCA)**: As under most other environmental statutes, EPA has the authority to conduct inspections of facilities that manufacture or manage chemical substances.

- **Toxic Chemicals (EPCRA)**: EPA requires facilities that store or release certain hazardous chemicals to submit reports, which are available to the public, about quantities of materials used, stored, and released to the environment. EPA, on its own or upon request of the state governor, can apply these requirements to individual facilities not otherwise covered by its regulations. EPA can choose to impose these requirements on a site-specific basis for concerns such as proximity to other facilities that release the same chemicals, or to population centers, or other factors that may be relevant to cumulative risk in communities.

- **Toxic Chemicals (EPCRA)**: Health professionals in the community and local government health agencies can require facilities to provide information about the type of chemicals released and other related information. They may need this information to treat exposed individuals or deal with medical emergencies. Those officials must sign a confidentiality agreement, however, to limit the use of the information to the purposes identified.

which community residents can influence whether the future use of the cleaned-up property will benefit their community in a significant way.

As discussed above, community residents need not limit themselves to the public notice and comment periods provided by the government. The official opportunity to comment generally comes at the stage in the process where all investigation has been completed, alternative cleanup options have been identified and explored, and the government's "preferred" cleanup option has been tentatively selected. Changing minds at this late date is not an easy task. Early and regular communication with the decision makers – with all significant oral communications confirmed in writing – is more likely to make a difference in

what the final cleanup decision looks like. The decision to clean up a contaminated site should reflect actual conditions in your community, as well as realistic assumptions about future land use and possible exposure to contaminants. Community participation in the decisionmaking process – "early and often" – is essential to make sure this happens.

Information Gathering, Monitoring, and Inspections

A previous section discussed the types of information gathering that facilities and the government undertake as a routine matter – including inspections, monitoring of discharges, and recordkeeping. The government has authority in many cases to require additional information to be created and submitted, which can also include sampling and reporting. The authority is discretionary, meaning the government can choose to require additional information gathering, but does not have to. If there is information that you wish to know, but that does not seem to exist, you may be able to persuade the government to use some of these authorities to gather or create the information you seek. Any information gathered under these authorities should be available to the public, or can be requested under FOIA, as discussed earlier, if more convenient access is not provided.

Enforcing Environmental Laws

See ELI Statutory Analysis pp. 27-37 for further details.

The government has discretion to take enforcement actions against anyone who violates the requirements under environmental laws and regulations. The government cannot be forced to take any enforcement action, or to take a specific enforcement action. Citizens may be able to persuade the government to take enforcement action in certain situations, for example, by showing that the violations are having adverse impacts on environmentally burdened communities.

Once an enforcement action has been filed, you may be able to influence the consequence given for not complying with a law or regulation. Possible consequences range from the government assessing civil penalties to revoking or suspending a facility's permit to operate. Community residents can argue for the types of consequences that will benefit health in their community most directly. In some cases, EPA has allowed or required companies to pay for and implement (as part of the "penalty" a company pays for environmental violations) "supplemental environmental projects." These could include restoration of other environmental resources in the area, funding of a community environmental organization, a community cleanup or beautification project, or a citizen monitoring program. Residents can suggest particular supplemental environmental projects that would benefit their communities.

EPA has extensive policies on calculating civil penalties, which require consideration of multiple factors. Because

Examples of Enforcement Provisions in Environmental Laws

- **Water (CWA)**: EPA can issue compliance orders, suspend or revoke permits, assess penalties, or bring lawsuits to address violations of the statute, regulations, permits, or other requirements governing discharges of pollutants into the water. EPA can seek emergency relief if a court finds an "imminent and substantial endangerment" at a particular facility. Similar authority exists under other environmental statutes.
- **Air (CAA)**: EPA may require the use of low-polluting fuels if urban buses do not meet emission standards.
- **Hazardous Waste (RCRA)**: EPA can issue compliance orders, suspend or revoke permits, assess penalties, or bring lawsuits to address violations of the statute, regulations, permits, and other requirements governing hazardous waste treatment, storage, and disposal facilities. EPA can seek emergency relief if a court finds an "imminent and substantial endangerment" at a particular site. Similar authority exists under other environmental statutes.
- **Superfund (CERCLA)**: EPA can require parties who fail to comply with cleanup orders under the Superfund program to pay three times the costs of EPA's efforts to conduct the cleanup.
- **Pesticides (FIFRA/FFDCA)**: EPA has the authority to seize pesticides or application devices that cause unreasonable environmental effects. If community residents are aware of such effects, they can bring that information to EPA's attention. Similarly, the Department of Health and Human Services can seize food which is contaminated with pesticides or mislabeled.
- **Drinking Water (SDWA)**: EPA may deny federal financial assistance to any project which may contaminate the recharge zone of certain "sole source aquifers."
- **Chemical Substances (TSCA)**: EPA can order a facility that manages chemical substances to change its quality control procedures to protect human health and the environment. EPA can also notify the public of any risks associated with the facility's management of the chemical.
- **Toxic Chemicals (EPCRA)**: Health officials and medical professionals who seek information about the nature of chemical releases can file a lawsuit to require that the information be provided.

penalties are tied in part to how much harm was caused by the violation, information community residents can provide about health problems or other injuries caused by a violation can help enforcement agencies collect higher penalties. This in turn will provide a bigger incentive for the violator (and other potential violators) to comply in the future. In calculating a civil penalty amount, EPA can also consider how much money a company saved by not complying, and can add that dollar figure on as a civil penalty amount. This may be something to focus on if you can show that a company earned increased profits by locating in your community and violating environmental laws. Another factor for calculating civil penalties is a company's good faith attempt to comply with environmental law. A showing of bad faith or unwillingness to comply can increase the dollar value of the penalty. Your knowledge of the company's operational history and general attitude toward compliance can be helpful to the agency in determining an appropriate penalty amount.

There are standard enforcement authorities in virtually every environmental law. EPA and the states have authority to issue administrative fines and orders without going to court, although the person fined can then appeal those decisions to a court if they disagree with the result. Agencies can also go to court to seek civil fines and other relief (such as court orders prohibiting additional pollution or requiring cleanup). They can bring criminal actions for particularly bad conduct. Citizens often are allowed to "intervene" in administrative and civil (but not criminal) cases, and then participate in the legal proceedings. You may choose to do so if you believe the government will not take a strong enough position. You also have the ability to comment on many proposed enforcement settlements that the government enters into with violators, before the settlement becomes final.

Environmental Impact Analysis

See ELI Statutory Analysis pp. 67-85 for further details.

Under a law called the National Environmental Policy Act, federal agencies are required to prepare (or to have someone else prepare) an environmental impact statement on any "major federal action" that may have a significant effect on the quality of the environment as it affects humans and ecosystems. While this law is implemented by all federal government agencies and not just EPA, EPA has a special role and responsibility to comment on EISs with respect to all issues over which EPA has jurisdiction under environmental statutes. Internal EPA guidance indicates that the agency should address environmental justice concerns during its NEPA reviews. This means that community residents can make their own comments on a proposed major federal action particularly effective by urging EPA to adopt their environmental justice positions in its analysis of the EIS prepared by another federal agency. As part of its EIS review process, EPA is supposed to identify environmental justice communities and meet with affected groups to try to identify and understand environmental justice concerns that should be addressed in the NEPA process.

Under decisions issued by the U.S. Supreme Court, the EIS requirement of NEPA does not change the general requirements regarding who can conduct polluting activities where, and under what conditions. The activities that are studied in an EIS must still meet all the requirements under other environmental laws. Instead, NEPA requires federal agencies to *study* the major environmental impacts of the proposed action fully, and to report them fairly to all involved decision makers and the public. The goal is for decisions on proposed actions to be based on a reasonably thorough evaluation of their impacts. Impacts include the direct effects of the proposed action, along with secondary or indirect impacts. To identify secondary or indirect impacts, EPA might consider whether a new facility will cause more development to occur in a neighborhood area. The impacts considered by EPA also include cumulative impacts of the proposed action.

NEPA requires agencies to study and analyze all reasonable alternatives to the proposed action (including the "no action" alternative), and to compare the environmental impacts of the alternatives to those of the proposed action. This is to ensure that federal environmental decisions are based on a full analysis of available options. In 1997, the President's Council on Environmental Quality (CEQ) issued guidance specifically identifying environmental justice issues that must be addressed under NEPA by all federal agencies. The Executive Order on Environmental Justice also requires agencies to address those issues in their NEPA analysis.

Even though it imposes no new substantive requirements, NEPA is an important tool for community residents because it provides a key opportunity to participate in government decisions. There are several opportunities for members of the public to comment during the NEPA process. An agency sometimes prepares a shorter document known as an "Environmental Assessment" (EA) in order to determine whether the environmental impacts of a proposed action are "significant" enough to prepare a larger EIS. Public comments on the draft EA can be instrumental in convincing an agency that a full EIS is required. This is an early but important opportunity to bring known or potential environmental justice impacts to the agency's attention. Once an agency decides to prepare an EIS, bringing particular issues to their attention

early makes it more likely that they will be addressed in the EIS. Community residents can comment at the "scoping" phase in which agencies decide which issues to study in the EIS, in written comments and in public hearings on the draft EIS, and in comments on the final EIS. After an EIS is finalized, the proposing agency must prepare a "record of decision" explaining its final action, discussing why it chose the alternative it did, and responding to public comments. The record of decision must address environmental justice issues in particular by indicating whether the proposed action will have disproportionately high impacts on low-income communities and communities of color.

The fact that NEPA refers to the "human environment," which includes more than the natural environment, gives it special importance for environmental justice issues. An EIS must address not only the impact on the physical environment of a proposed action and its alternatives, but also the effects of those actions on human populations (known as "socio-economic impacts"). These may include the issues of concern to residents in environmentally burdened communities, such as disproportionate impacts to certain population groups, cumulative impacts from multiple sources of harm, loss of important subsistence resources, and secondary impacts such as induced growth. Thus, the NEPA process can be a tool to ensure that environmental justice issues, which may not have to be considered under other specific environmental statutes, are evaluated and considered by agencies in reaching their final project decisions.

Finally, as with many of the other federal laws discussed in this handbook, many states have their own NEPA-type laws that impose similar requirements on major state government actions. Those laws may be important where no major federal action is involved, but where important environmental impacts will occur nonetheless. You will want to find out whether such a law exists in your state, and how and when it applies.

LEGAL TOOLS

The previous section outlined many provisions in the environmental laws that community residents may use to protect their community's health and environment. For some of them, just knowing about the opportunities provided by the laws (and following up on them) is all that is required. For others, special procedures must be followed, and particular tools may help to ensure that the opportunities are provided.

The most commonly used "tool" for concerned citizens to influence government decisions – public notice and comment – was discussed above. As mentioned earlier, community residents should not feel constrained by the official public notice and comment period that often comes late in the decisionmaking process. You will be most effective if you do your fact gathering and develop a strategy as soon as you find out about an environmental concern, and begin having informal communications (confirmed in writing) with government officials as soon as possible. If the decision makers do not know that environmental justice concerns might be relevant, they cannot do anything about them.

Public notice and comment can only help you, though, if the government has decided to make some kind of decision. It is a reactive process. In many cases, you will be in a position where you want to make the government or a company take action, and they may be reluctant to do so. This section describes some legal tools that are available to request, or in some cases require, government or facility action. These tools can be used along with other non-legal forms of prompting action, such as publicity or political intervention, which are not discussed in this handbook.

Petitions

See ELI Statutory Analysis p. 61 for further details.

Environmental laws provide some opportunities for citizens to petition the government to take actions to protect public health. (These provisions supplement the general provision in the federal Administrative Procedure Act, which applies to all government programs, and which allows individuals or groups to petition agencies to issue appropriate rules.) In some cases the government does not have to take any action in response to a petition, but it may still be a way of getting your community's environmental justice concerns on the agency's radar screen. It can also be used as a way of starting a dialogue with the agency about your issues. In addition, court action may be possible if the agency ignores your request altogether, or if it denies it improperly or without a proper explanation.

Formal procedures may be required to file some of the petitions identified in Appendix A. You should read the relevant statutory section and any regulations under that section, and call the relevant agency, to identify the appropriate process.

Citizen Suits

See ELI Statutory Analysis p. 37 for further details.

The environmental statutes discussed in this handbook include "citizen suit" provisions that allow "any person" to sue to enforce that law. Because it is generally necessary and desirable (although technically not essential) to be represented by a qualified attorney in these lawsuits, the

basics of the citizen suit provisions will be discussed only briefly here. However, it is important for community residents to be aware of these provisions as one option to make sure that the environmental laws are obeyed when other methods do not succeed. It is also useful to know that citizens who win in these lawsuits often can collect their attorneys' fees and other costs (such as the cost to hire expert witnesses), although some recent court decisions have limited those fee awards in some circumstances. This may allow attorneys to handle these lawsuits for free (or for no more than the costs required to bring the case), if they believe the case is strong and that there is a good chance of collecting their fees from the government or company at the end of the case.

There are two basic types of citizen suits, designed to address very different types of problems. In the first, citizens are entitled to sue the Administrator of EPA for failure to perform mandatory (or "non-discretionary") duties under the statute in question. The question of which EPA duties are mandatory (required) and which are discretionary (optional) is somewhat complex, but in general, words like "shall" as opposed to "may" (especially when used with a specific deadline for action) suggest that the Administrator may be sued if the specified action is not performed on time. While this provision covers all of the Administrator's statutory duties, it may be of particular interest to community residents who believe that EPA may be giving lower priority to environmental justice issues and problems. A citizen suit is one way to force EPA to act in a more even-handed manner, or to shift its priorities so that environmental justice concerns do not remain at the bottom of the pile.

The second basic type of citizen suit allows citizens to sue other "persons" (including businesses and government agencies) who conduct polluting activities for discharging pollutants or taking (or failing to take) other actions in violation of environmental laws. The types of violations that can be the subject of a citizen suit include, but are not limited to:

- unpermitted releases or activities
- releases or activities that violate the terms of environmental permits or approvals
- failure to monitor pollution properly, or
- failure to report monitoring results to the appropriate agency.

Examples of Petition Provisions in Environmental Laws

- **Air (CAA)**: Any person can petition EPA to object to a state's proposed Title V permit. The petition must be filed within 60 days after EPA's review period ends without negative comment from EPA.

- **Superfund (CERCLA)**: Any person who is affected by a release or threatened release of a hazardous substance can petition EPA to conduct a preliminary site assessment of the hazard to the public health and to the environment. EPA must complete this assessment within 12 months or explain why it is not appropriate to do so. Petitions are available through NTIS (doc. PB 90-273-723). http://www.epa.gov/r10earth/offices/oec/pa petit.pdf (Please see the following web site for further information on petitions for site assessments: http://ww.epa.gov/R5Brownfields/htm/bf pap.htm)

- **Superfund (CERCLA)**: Any person who is affected by a release or threatened release of a hazardous substance can petition EPA to request a health assessment from ATSDR. Although the health assessment process can be lengthy, it can increase public awareness about conditions in your community. Community residents can provide ATSDR with relevant information about potential exposures to hazardous substances and the incidence of disease within the community. (Please see the following web site for further information on petitions for public health assessments: http://www.atsdr.cdc.gov /HAC/petition.html)

- **Pesticides (FIFRA/FFDCA)**: States can petition for authority to establish, modify, or revoke allowable amounts of pesticide residues on or in food based on compelling local circumstances. Community residents who believe that local populations are particularly susceptible to risks due to other sources of exposure and other factors can ask their state to seek this authority.

- **Drinking Water (SDWA)**: Any person served by a small drinking water system can petition EPA to object to or revoke a state's grant of a variance from attaining national primary drinking water standards.

- **Chemical Substances (TSCA)**: Petitions can be filed asking EPA to amend or repeal rules governing toxic substances. In 1994, for example, citizens used this provision successfully to prompt EPA to issue subpoenas to companies in the U.S.-Mexico border area to provide information on chemical releases to the New River. http://www.planeta.com/ecotravel/border/0095new.html

- **Toxic Chemicals (EPCRA)**: Citizens can petition states to modify Local Emergency Planning Commissions (which prepare emergency response plans for chemical releases) to include members who understand and are sensitive to environmental justice issues. Citizens should contact their State Emergency Response Commission. http://www.epa.gov/ceppo/serclist.htm

Again, community residents may be particularly interested in this type of citizen suit because many federal and state environmental agencies are underfunded and lack the resources to sue all polluters themselves. If you believe that government enforcers are ignoring pollution violations in your community, you may be able to use citizen suits to enforce the laws directly.

There are several important limitations on filing citizen suits. First, in most cases, citizens first must provide a written 60-day notice of intent to sue, giving the polluters the chance to come into compliance, or federal or state environmental agencies a chance to bring a lawsuit themselves. Exceptions to the 60-day notice requirement apply in certain situations involving toxic or hazardous substances or other particularly dangerous activities.

Second, if a government agency is "diligently prosecuting" its own lawsuit, the citizens who filed the notice of intent to sue may not be able to bring their own case. Of course, if the polluter comes into compliance or if the government brings its own lawsuit, the basic purpose of filing notice of intent to sue may be fulfilled. It is important to pay attention to the results of the government's enforcement action to make sure that polluters do not repeat the violations again later. You will also want to make sure any settlements between government agencies and polluters are tough enough. You may have more influence over these issues if you intervene in the government enforcement action. Finally, there is usually a certain time period (called a statute of limitations) within which you must file a citizen suit. While the time period may differ in each environmental law, it is generally calculated from when the action (or failure to act) that you are suing about occurred.

AVAILABLE RESOURCES

Federal dollars may be available to help you accomplish some of your goals, although the amounts of funding are very limited. This section identifies some of those opportunities.

In addition, Appendix B contains information about additional EPA administered grant programs that may be able to provide support to community residents.

Funding and Other Assistance for Public Participation

See ELI Statutory Analysis pp. 51-52 for further details.

In a few situations, Congress has decided that community input in a certain type of government decision is vitally important, and that communities often do not have the technical expertise to participate as effectively as possible. In those select situations, Congress has decided that EPA should provide funds for community participation. Community residents who are trying to forward environmental justice goals may be in a good position to receive some of this funding.

There are at least three specific types of decisions where Congress has required, and EPA offers, this type of funding. There are many "hoops" to jump through to qualify

Examples of Funding and Other Assistance for Public Participation Provisions in Environmental Laws

- **Major Federal Action (NEPA)**: EPA's internal NEPA guidance provides that EPA is supposed to help representatives of communities with environmental justice concerns to understand the proposed federal action being considered. EPA is also supposed to consult with and work with communities to ensure that those concerns are addressed in the NEPA process. EPA's Office of Environmental Justice can coordinate this technical assistance.

- **Superfund (CERCLA)**: EPA offers "technical assistance grants" (TAGs) of up to $50,000 to groups affected by a release or threatened release of hazardous substances from a listed Superfund site. These funds may be used to hire technical experts to help community residents interpret technical information and participate in the Superfund decisionmaking process. For further information contact Lois Gartner, Superfund Community Involvement and Outreach Center, 703-603-8889.

- **Superfund (CERCLA)**: The Technical Outreach for Communities (TOSC) program, a part of the Hazardous Substance Research Centers, uses university educational and technical resources to help community groups understand the technical issues relating to hazardous waste sites. Technical assistance is available for Superfund and brownfields sites. http://www.toscprogram.org/newtosc-text.html.

- **Chemical Substances (TSCA)**: EPA has the authority to provide financial assistance to groups who want to participate in the rulemaking process governing the manufacture and use of toxic substances. These funds can be used to pay for expert witnesses, attorneys' fees, and other costs for groups that "represent an interest which would substantially contribute to a fair determination of the issues" and if they lack sufficient resources to do so without aid.

for this type of funding, but this should not dissuade you from trying to get it. Having money to pay technical experts can help you understand what the government is trying to do, what it is authorized to do, and what the rules of the game are.

Other Grants

See ELI Statutory Analysis pp. 47-53 for further details.

EPA has grant money available for training and research in various areas. As part of a long-term strategy to promote environmental justice goals in your community, these opportunities might be useful in building capacity in, or bringing employment opportunities to, your community.

Program Funding

EPA provides extensive funding to states, tribes, and in some circumstances local governments, to administer environmental programs. These are opportunities that may not benefit community residents directly, but which could improve community environmental health in the long run. Community support for increased program funding in your town or state may be the impetus for creating additional environmental protections for your community. The majority of program funding opportunities identified in Appendix A will be applicable to tribes, because they are considered to be states under many environmental laws and have the opportunity to receive delegated responsibility to administer and enforce selected environmental programs.

Examples of Other Grant Provisions in Environmental Laws

- **Toxic Chemicals (EPCRA)**: Grants are available to local governments and universities for education and training to improve emergency planning, preparedness, response, and recovery capabilities.

- **Environmental Justice Through Pollution Prevention Program**: EPA's Environmental Justice Through Pollution Prevention Program, established in 1995, encourages pollution prevention projects that directly benefit low-income communities and communities of color. Any incorporated community group (such as grassroots organizations, churches, schools, local governments, tribal governments, or other non-profits) may apply for grants. EPA focuses on pro-active, preventive projects that help small businesses and institutions prevention pollution in communities; develop partnerships between communities and industries; encourage pollution prevention in agriculture; improve the environment in tribal communities; educate communities about pollution prevention approaches; promote efficient resource use in communities; and promote youth education and involvement. More information is available at http://www.epa.gov/opptintr/ejp2/.

- **Environmental Justice Small Grants Program**: EPA also established an Environmental Justice Small Grants Program in 1994 to support grassroots organizations, churches, schools, local governments, tribal governments, or other non-profits working on projects that address environmental justice issues. Preference is given to groups that provide local solutions to local environmental problems, with emphasis on public health concerns and providing environmental information to communities. Grants are provided for up to $20,000 each. More information is available from the EPA Office of Environmental Justice Small Grants Program, Sheila Lewis, 202-564-0152. Information is also available from the regional offices listed in the Application Guidance, which can be obtained at http://es.epa.gov/oeca/oej/grlink1.html.

Examples of Program Funding Provisions in Environmental Laws

- **Water (CWA)**: EPA offers grant funding to states and tribes to implement non-point source management programs.
- **Air (CAA)**: Ten percent of the funding for the urban air toxics program is set aside for state and local programs. This funding could be used to address toxic hotspots in low-income communities and communities of color.
- **Air (CAA)**: Technical and financial assistance is available not only to government agencies, but to private agencies, institutions, organizations, and individuals to conduct activities to prevent and control air pollution, including the purchase of monitoring equipment. This funding could be used for monitoring programs, for example, if a community believes that air pollution hotspots are not measured through existing federal and state monitoring efforts.
- **Hazardous Waste (RCRA)**: EPA provides financial assistance, on an equitable basis, to communities that are planning and implementing energy and materials conservation and recovery programs.
- **Superfund (CERCLA)**: Funding is available under the Superfund program to reimburse local communities (up to $25,000) for emergency cleanup expenses.
- **Pesticides (FIFRA/FFDCA)**: States and tribes can receive funding to assume enforcement responsibilities in the pesticide control program, and to train and certify pesticide applicators.
- **Drinking Water (SDWA)**: EPA offers grant funding to states and tribes to implement public water system supervision programs and underground water supply protection programs.
- **Chemical Substances (TSCA)**: Grants are available for states to protect residents from radioactive radon gas in homes. States are required to give preference to low-income persons in demonstration projects and other activities conducted under their radon programs.

APPENDIX A:
Summary Descriptions of Selected Environmental Statutes

Appendix A contains brief narrative summaries of the federal statutes covered by this handbook, as well as tables of specific statutory sections. The companion statutory analysis discusses most, but not all, of these provisions in detail. If there is a section you would like to learn more about, please refer to the ELI Statutory Analysis. It is available electronically at no cost from the Environmental Law Institute web site <www.eli.org>. Click on "Publications" then "2002 Research Reports" to obtain a copy. You can also order the report by calling 1-800-433-5120.

This Appendix does not identify all possibly relevant sections of these laws, only the most prominent ones. For some sections, the Appendix also identifies the regulations (rules) that the Environmental Protection Agency (EPA) has issued to implement the statutory section, or a relevant website with additional information. Again, not all available information has been included. The following tables provide more detailed information about specific provisions (sections) of each of the environmental statutes covered in this handbook, organized into the categories of legal rules, requirements, and tools discussed in Chapter 3. Once you identify which statute, or statutes, applies to a particular environmental justice problem, you can review the appropriate chart to identify potentially useful provisions. The first column describes the statutory provision. The second column provides the citation to the section of the law as it was enacted by Congress. The third column provides what is called a "parallel citation" to the same section of the law, as it was codified in the U.S. Code (USC). The U.S. Code is a compilation of all the laws in the United States. It is divided into "titles" or volumes. The title of the U.S. Code where the section is located is provided at the top of the third column. For some statutory provisions, possible environmental justice issues that might be relevant are highlighted in brackets, like this: [possible environmental justice issue:].

Where can you find these statutes and regulations? At a law library, a law school or possibly at your local courthouse. The statutes are found in the U.S. Code. The regulations are found in the Code of Federal Regulations (CFR). A librarian should be able to help you find the specific sections you're looking for, based on the simple information given in these tables. Both the U.S. Code and the Code of Federal Regulations are available free of charge online. For example, the U.S. Code can be searched electronically at http://www.findlaw.com/casecode/uscodes. The Code of Federal Regulations can be searched electronically at http://www.access.gpo.gov/nara/cfr/. Regional EPA offices and law libraries near your community should also have copies of both sets of books.

CLEAN AIR ACT

The Clean Air Act (CAA) is the federal law that regulates emissions into the air from stationary (not able to move) and mobile (able to move) sources in order to protect public health and decrease air pollution.

Under the CAA, EPA has set national ambient air quality standards (NAAQS) for certain air pollutants. NAAQS are levels of pollution in the outside air that research indicates will not harm even individuals who are particularly sensitive to pollutants. EPA has determined which areas of the country currently meet the NAAQS for each pollutant (called "attainment areas") and which areas of the country do not currently meet NAAQS for each pollutant (called "non-attainment areas"). The area in which you live may be in "attainment" for some air pollutants and in "non-attainment" for others. States are required to develop and periodically revise a state implementation plan (SIP), which describes how that state plans to reach attainment for all regulated pollutants within a certain time period.

EPA also sets national standards that must be met by all stationary facilities that have emissions into the air. These include performance standards for new stationary sources of air pollution (known as new source performance standards or NSPS). EPA lists categories of sources of certain hazardous air pollutants (known as HAPs) and sets national emission standards for them (know as NESHAPs). EPA has a specific program (known as the Urban Air Toxics Program or Urban Air Strategy) to develop a strategy for reducing emissions of HAPs in urban areas.

These national standards are applied to an individual facility with a stationary source of air emissions through a *permit*. Although historically, a variety of permits were issued under the CAA, there is an effort underway to consolidate all requirements into a single operating permit under Title V of the CAA (known as a "Title V permit"). For facilities that do not yet have a Title V operating permit, they may be operating under a new source review (NSR) permit or a prevention of significant deterioration (PSD) permit (which is issued in "attainment" areas). States can apply to EPA for authority to administer the Title V permit program within their boundaries.

EPA also regulates mobile sources, which include automobiles, trucks, buses, aircraft, and non-road engines. It regulates motor vehicle and heavy-duty truck emissions, hazardous air pollutant emissions from motor vehicles and motor vehicle fuels, fuels and fuel additives, and sets urban bus standards.

CLEAN AIR ACT

CLEAN AIR ACT	STATUTORY SECTION OR REGULATION	U.S. CODE SECTION IN TITLE 42
NOTICE AND PARTICIPATION		
Notice and Comment		
public notice and comment on draft Title V permits	40 C.F.R. § 70.7(h)	not applicable
public notice and comment on EPA's proposal to approve state Title V permit program	40 C.F.R. § 70.4(b)	not applicable
public notice and comment before EPA approval of SIP	§ 110(a)	§ 7410(a)
public notice and comment before EPA approval of SIP revision	§ 110(*l*)	§ 7410(*l*)
public notice and comment before a PSD area is redesignated [possible environmental justice issue: health, environmental, economic, social and energy effects to be evaluated]	§ 164(b)	§ 7474(b)
opportunity for public notice and comment before U.S. enters into a consent order or settlement agreement under CAA	§ 113(g)	§ 7413(g)
Public Hearings/Meetings		
opportunity for public hearing on draft Title V permit	40 C.F.R. § 70.7(h)	not applicable
public hearing on draft PSD permit [possible environmental justice issue: alternatives to new or modified emission source to be considered]	§ 165(a)(2)	§ 7475(a)(2)
public hearing before EPA approval of SIP revision	§ 110(*l*)	§ 7410(*l*)
public hearing before any PSD area redesignated [possible environmental justice issue: health, environmental, economic, social and energy effects to be evaluated]	§ 164(b)	§ 7474(b)

CLEAN AIR ACT	STATUTORY SECTION OR REGULATION	U.S. CODE SECTION IN TITLE 42
NOTICE AND PARTICIPATION		
Citizen Advisory Groups		
EPA to consult with advisory committees before issuing various air quality standards and regulations	§ 117(a), (b)	§ 7417(a), (b)
meaningful community participation in siting solid waste incineration units	§ 129(a)(3)	§ 7429(a)(3)
any board or body that approves permits or enforcement orders to have at least a majority of members who represent the public interest	§ 128(a)	§ 7428(a)
AVAILABLE INFORMATION		
Clearing Houses/Databases		
databases of information regarding emission control technology • Clean Air Technology Center (http://www.epa.gov/ttn/catc) • RACT/BACT/LAER Clearinghouse - information on air pollution emission standards (http://cfpub1.epa.gov/rblc) (RACT, RACT, and LAER are acronyms for different program requirements under the CAA. They stand for Reasonably Available Control Technology [RACT], Best Available Control Technology [BACT], and Lowest Achievable Emission Rate [LAER].)	§ 108(h)	§ 7408(h)
Great Lakes atmospheric deposition monitoring network; monitoring stations for Chesapeake Bay and Lake Champlain; atmospheric deposition monitoring networks for coastal waters and watersheds	§ 112(m)	§ 7412(m)
revised inventory of actual emissions for ozone non-attainment areas (every 3 years until attainment reached); ambient monitoring of various air pollutants	§ 182	§ 7511a
EPA-sponsored air quality monitoring stations in major urban areas	§ 319	§ 7619
air toxics clearinghouse and center (technical information and assistance to states and local agencies; information to be available to the public) (http://www.epa.gov/ttn/atw)	§ 112(*l*)(3)	§ 7412(*l*)(3)
National Urban Air Toxics Research Center (http://es.epa.gov/ncerqa/nuartrc.html)	§ 112(p)	§ 7412(p)
Public Education		
education and outreach efforts to inform public about integrated urban (air toxics) strategy	§ 112(k)	§ 7412(k)
annual notification of public by state of areas in which NAAQS	§ 127(a)	§ 7427(a)
Facility Monitoring Data/Record-keeping		

CLEAN AIR ACT	U.S. CODE SECTION OR REGULATION	STATUTORY SECTION IN TITLE 42
AVAILABLE INFORMATION		
Facility Monitoring Data/Record-keeping		
stationary air pollution source's risk management plan [possible environmental justice issue: off-site consequence analysis information to minimize accidental releases] (risk management plans found at http://www.epa.gov/ceppo/ap- arcs.htm, and at facility)	§ 112(r)(7)(B)(ii)	§ 7412(r)(7)(B)(ii)
Title V permit recordkeeping requirements	§ 504(c)	§ 7661c(c)
facility-specific recordkeeping and monitoring requirements (must be available to public)	§ 114(a)	§ 7414(a)
ambient air quality monitoring required as part of PSD permit review (continuous air quality monitoring data; data to be made available at public hearing)	§ 165(e)(1), § 165(a)(7)	§ 7475(e)(1), § 7475(a)(7)
emissions monitoring by solid waste incineration units (copies to be available for public inspection and copying during business hours)	§ 129(c)	§ 7429(c)
Agency Inspections		
EPA/state authority to inspect Title V permitted facilities	§ 504(c)	§ 7661c(c)
Reporting		
EPA report to Congress on residual risk from HAPs	§ 112(f)(1)	§ 7412(f)(1)
National Air Toxics Program report to Congress [possible environmental justice issue: integrated urban strategy]	§ 112(k)	§ 7412(k)
report on extent of atmospheric deposition of HAPs (acid rain) to the Great Lakes, the Chesapeake Bay, Lake Champlain and coastal waters	§ 112(m)	§ 7412(m)
Title V permit reporting requirements (reporting of deviations from permit requirements, probable cause and corrective/preventative measures taken)	§ 504(c)	§ 7661c(c)
facility-specific reporting requirements (must be available to public)	§ 114(a)	§ 7414(a)
EPA report on cost-benefit analysis of CAA on public health, economy and environment of U.S. (to be updated every two years)	§ 312(d), (e)	§ 7612(d), (e)
LEGAL RULES AND OPPORTUNITIES		
Standard Setting		
air quality criteria for specific air pollutants [possible environmental justice issue: consider cumulative or synergistic effects]	§ 108(a)(1)-(2)	§ 7408(a)(1)-(2)
primary and secondary NAAQS [possible environmental justice issue: adequate margin of safety; protection of "sensitive citizens"] (5-year review of NAAQS)	§ 109	§ 7409

CLEAN AIR ACT	U.S. CODE SECTION OR REGULATION	UNITED STATES SECTION IN TITLE 42
LEGAL RULES AND OPPORTUNITIES		
Standard Setting		
performance standards for NSPS [possible environmental justice issue: health impacts on sensitive populations]	§ 111(f)	§ 7411(f)
performance standards for solid waste incineration units [possible environmental justice issue: minimize risk on site-specific basis]	§ 129	§ 7429
NESHAPs [possible environmental justice issue: aggregate human health]	§ 112(c), (d)	§ 7412(c), (d)
urban air toxics program/integrated urban strategy	§ 112(k)	§ 7412(k)
standards for air pollutant emissions from new motor vehicles	§ 202(a)(1)	§ 7521(a)(1)
standards for air pollutant emissions from heavy duty engines	§ 202(a)(3)(B)	§ 7521(a)(3)(B)
motor vehicle emission standards for urban buses	§ 219(a)	§ 7554(a)
Rulemaking		
EPA to list categories of stationary sources that cause or contribute significantly to air pollution	§ 111(b)	§ 7411(b)
periodic review of hazardous air pollutants list	§ 112(b)(2)	§ 7412(b)(2)
requirements to control hazardous air pollutant emissions from motor vehicles and motor vehicle fuels [possible environmental justice issue: air toxics in "hotspots"]	§ 202(*l*)	§ 7521(*l*)
requirements for fuels, fuel additives, diesel fuel and reformulated gasoline	§ 211	§ 7545
EPA to promulgate federal implementation plan when state does not meet minimum criteria or SIP or permit program is disapproved	§ 110(c)(1)	§ 7410(c)(1)
requirements regarding accidental releases (prevention, detection, correction, monitoring, recordkeeping, reporting, training, equipment, etc.)	§ 112(r)(7)	§ 7412(r)(7)
Permitting and Other Approvals		
new air pollution source may request waiver from new source performance standard for use of innovative technology or continuous emission reduction system [possible environmental justice issue: cumulative impacts]	§ 111(j)	§ 7411(j)
risk management plans required for owner/operator of stationary air pollution source to minimize accidental releases and provide prompt emergency response	§ 112(r)	§ 7412(r)
Title V air pollution permit program	§ 504	§ 7661c
preconstruction review of new sources or modification of existing sources of air pollution (NSR permits required in non-attainment areas) [possible environmental justice issue: social costs of siting to be considered]	§ 173(a)	§ 7503(a)

CLEAN AIR ACT	U.S. CODE SECTION OR REGULATION	STATUTORY SECTION IN TITLE 42
LEGAL RULES AND OPPORTUNITIES		
Permitting and Other Appprovals		
permits for new sources or modification of existing sources of air pollution in attainment areas to protect PSD	§ 160(1)	§ 7470(1)
emissions trading authorized for sulfur dioxide and nitrogen oxides	§ 403(b)	§ 7651b(b)
Siting		
EPA to designate geographic areas as attainment or non-attainment for NAAQS; non-attainment areas further classified as marginal, moderate, serious, severe, or extreme	§ 181(a)	§ 7511(a)
EPA may require state to redesignate areas as non-attainment for NAAQS, or change significance classification within non-attainment area	§ 107(d)(3)	§ 7407(d)(3)
siting requirements for solid waste incineration units (cumulative impacts) (regulations to be published at 40 C.F.R. § 60, subpart Cc)	§ 129(a)(3)	§ 7429(a)(3)
NSR permit decision to include siting considerations	§ 173(a)(5)	§ 7503(a)(5)
Cleanup Decisions - no applicable provisions		
Information Gathering		
EPA authority to require monitoring, recordkeeping, reporting, or compliance certifications	§ 114(a)	§ 7414(a)
SIP to require monitoring devices and air quality modeling	§ 110(a)(2)	§ 7410(a)(2)
EPA authority to require fuel and fuel additive manufacturers to conduct tests	§ 211(b)(2)(A)	§ 7545(b)(2)(A)
EPA authority to conduct investigations and research concerning any specific air pollution problem that affects multiple communities (state air pollution control agency to request, or at EPA's own initiative)	§ 103(a)(3)	§ 7403(a)(3)
Enforcement and Compliance Assurance		
EPA to require use of low-polluting fuels if urban buses do not meet emission standards [possible environmental justice issue: discretion to mandate use of low-polluting fuels in smaller cities]	§ 219(c)(2)	§ 7554(c)(2)
EPA may impose highway sanctions and offsets as consequence for state's inadequate administration of air program [possible environmental just-issue: state loses significant highway funding and federal highway project approval; offset requirements for emissions trading increased]	§ 502(i), § 179	§ 7661a(i), § 7509
EPA civil action and civil penalty authority	§ 113(b), (e)	§ 7413(b), (e)

CLEAN AIR ACT	U.S. CODE SECTION OR REGULATION	UNITED STATES SECTION IN TITLE 42
LEGAL RULES AND OPPORTUNITIES		
Enforcement and Compliance Assurance		
EPA may dictate required revisions of SIP	§ 110(k)(5)	§ 7510(k)(5)
"imminent and substantial endangerment" authority	§ 303	§ 7603
Cleanup Decisions - no applicable provisions		
Petitions		
state governor may petition EPA to add category of stationary sources that cause air pollution to list for which NSPS must be developed	§ 111(g)	§ 7411(g)
petitions to add pollutants to hazardous air pollutants' list [possible environmental justice issue: bioaccumulation]	§ 112(b)(3)	§ 7412(b)(3)
any person may petition EPA to object to a state's issuance of Title V permit (file within 60 days after 45-day permit review period)	§ 505(b)	§ 7661d(b)
Citizen Suits		
against anyone violating requirements, or against EPA to enforce non-discretionary duty, or against anyone constructing new source without necessary permit	§ 304	§ 7604
AVAILABLE RESOURCES		
Funding of Public Participation - no applicable provisions		
Ombudspersons - no applicable provisions		
Grants Available		
EPA to conduct and promote training for individuals regarding causes, effects,prevention and control of air pollution	§ 103(a)(5)	§ 7403(a)(5)
Program Funding		
10% of total urban air toxics program funding to be set aside for state and local programs	§ 112(k)	§ 7412(k)
technical services and financial assistance available to air pollution control agencies, other public or private agencies, institutions, organizations and individuals to conduct activities for prevention and control of air pollution [possible environmental justice issue: purchase monitoring equipment]	§ 103(a)(2)	§ 7403(a)(2)
planning grants to air pollution control agencies for prevention and control of air pollution or implementation of NAAQS	§ 105	§ 7405

COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT ("SUPERFUND")

The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA, also known as "Superfund") was enacted in 1980 to address the cleanup of sites where hazardous substances have been released into the environment or where there is a substantial threat that hazardous substances will be released into the environment. EPA is authorized to clean up and take actions to prevent releases of hazardous substances and to recover its costs from parties who may be responsible for the release or threatened release. Superfund takes its name from the federal revolving fund that was set up to finance site cleanups.

Under Superfund, EPA has authority to investigate any release or threatened release of hazardous substances to the environment, and to take actions to clean up the release. EPA maintains a list of sites that may require cleanup (the National Priorities List or NPL). For sites placed on the NPL, EPA generally follows a process that involves multiple steps: preliminary assessment and site investigation (PA/SI) to determine whether a significant release or threat of release exists; remedial investigation and feasibility study (RI/FS) to explore the nature and extent of contamination, and to study various cleanup options; record of decision (ROD), in which EPA documents the cleanup option it has selected; remedial design and remedial action (RD/RA), in which EPA designs and conducts the cleanup; and long-term operation and maintenance (O&M) of the cleanup. EPA can use its "removal" authority to do faster, but smaller, cleanups at any sites that pose a more immediate threat, whether they are listed on the NPL or not.

In conducting investigations and cleanups, EPA can use money from the Superfund and try to collect it from the parties who are responsible for the release or threatened release of hazardous substances, or it can enter into agreements with the responsible parties to have them conduct the investigation and cleanup at their expense.

States generally are viewed as EPA's partners in Superfund cleanups. In many cases, the state will take the lead in administering the Superfund process at a particular site, but final authority for determining the cleanup remedy remains with EPA. Applicable state environmental requirements should be considered in Superfund cleanups.

The Superfund statute created the Agency for Toxic Substances and Disease Registry (ATSDR) in the Center for Disease Control as a central clearinghouse for information on the health effects of toxic substances. ATSDR also can conduct health assessments for facilities listed on the NPL.

The Superfund statute also requires anyone spilling more than a "reportable quantity" of hazardous substances into the environment to file reports with federal and state emergency officials.

COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT ("SUPERFUND")

COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT ("SUPERFUND")	CERCLA Statutory Section or Regulation	United States Code Section in Title 42
NOTICE AND PARTICIPATION		
Notice and Comment		
public participation in cleanup decision (notice and comment on cleanup alternatives; notice to be provided in local newspaper of general circulation)	§ 113(k), § 117(a), (c), (d)	§ 9613(k), § 9617(a), (c), (d)
transfer/sale of federal facility before cleanup completed	§ 120(h)	§ 9620(h)
public participation in consent decree	§ 122(d)(2)	§ 9622(d)(2)
public participation in settlement with *de minimis* party or cost recovery settlement (facts about exposure patterns, past practices of site owners)	§ 122(i)	§ 9622(i)

COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT ("SUPERFUND")	CERCLA Statutory Section or Regulation	United States Code Section in Title 42
NOTICE AND PARTICIPATION		
Public Hearings/Meetings		
opportunity for public meeting in affected area regarding cleanup alternatives (notice to be provided in local newspaper of general circulation)	§ 113(k), § 117(a), (d)	§ 9613(k), § 9617(a), (d)
Citizen Advisory Groups		
not required by statute, but EPA can create them	not applicable	not applicable
AVAILABLE INFORMATION		
Clearinghouses/Databases		
Federal Agency Hazardous Waste Compliance Docket (information about contaminated federal facilities; docket available for public inspection; published in Federal Register every six months) (http://es.spa.gov/oeca/fedfac/oversight/oversight.html)	§ 120(c)	§ 9620(c)
EPA/ATSDR list of most commonly found haz. substances (http://www.atsdr.cdc.gov/cxcx3.html; http://www.atsdr.cdc.gov/99list.html)	§ 104(i)(2)	§ 9604(i)(2)
Public Education		
notice to be given to persons potentially injured by a release	§ 111(g)	§ 9611(g)
alternative/innovative technologies demonstration sites and technology transfer program	§ 311(b)	§ 9660(b)
research and training program with the Department of Health and Human Services (HHS) [possible environmental justice issue: e.g., risk assessment methods, human health effects]	§ 311(a)	§ 9660(a)
ATSDR-prepared toxicological profiles of hazardous substances (http://www.atsdr.cdc.gov/toxpro2.html)	§ 104(i)(3)	§ 9604(i)(3)
Facility Monitoring Data/Recordkeeping		
EPA information requests [possible environmental justice issue: request info, access facilities and documents, inspect, take samples]	§ 104(e)	§ 9604(e)
recordkeeping regarding characteristics of hazardous substances	§ 103(d)	§ 9603(d)
Agency Inspections		
EPA authority to undertake investigations	§ 104(b)	§ 9604(b)
Reporting		
hazardous substance "reportable quantity" release reporting	§ 103(a)	§ 9603(a)
federal facilities to identify contamination that affects contiguous or adjacent property	§ 120(b)	§ 9620(b)

COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT ("SUPERFUND")	CERCLA Statutory Section or Regulation	United States Code Section in Title 42
AVAILABLE INFORMATION		
Reporting		
federal facility's annual budget to include cleanup program information	§ 120(e)(3)	§ 9620(e)(3)
federal facility annual progress reports to Congress regarding cleanup program	§ 120(e)(5)	§ 9620(e)(5)
EPA report to Congress regarding 5-year review sites	§ 121(c)	§ 9621(c)
EPA annual report to Congress regarding progress achieved	§ 301(h)	§ 9651(h)
Local Repositories		
administrative record documenting selection of response action	§ 113(k), § 117	§ 9613(k), § 9617
LEGAL RULES AND OPPORTUNITIES		
Standard Setting - no applicable provisions		
Rulemaking		
list hazardous substances (setting threshold reporting quantities)	§ 102(a)	§ 9602(a)
national response plan to establish procedures for responding to releases	§ 105(a)	§ 9605(a)
guidelines for using "imminent hazard" authority	§ 106(c)	§ 9606(c)
notice to be given to persons potentially injured by a release	§ 111(g)	§ 9611(g)
Permitting and Other Approvals - no applicable provisions		
Siting - no applicable provisions		
Cleanup Decisions		
EPA response action authority to spend Superfund money	§ 104	§ 9604
EPA "imminent and substantial endangerment" authority to force cleanup	§ 106(a)	§ 9606(a)
cleanup process at federal facilities	§ 120	§ 9620
high priority for facilities with contaminated drinking water issues (cleanups, enforcement, listing sites on NPL)	§ 118	§ 9618
required actions if health assessment shows significant risk to public health [possible environmental justice issue: use in conjunction with RCRA 3019(b) and CERCLA 105(d) to request health assessments]	§ 104(i)(6), (i)(11)	§ 9604(i)(6), (i)(11)
approach for EPA cleanup selection [possible environmental justice issue: preference for permanent treatment]	§ 121(b)	§ 9621(b)
5-year review if hazardous substances left on-site	§ 121(c)	§ 9621(c)

COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT ("SUPERFUND")	U.S. CODE SECTION OR REGULATION	STATUTORY SECTION IN TITLE 42
LEGAL RULES AND OPPORTUNITIES		
Cleanup Decisions		
target level of cleanup [possible environmental justice issue: state environmental justice laws as applicable and relevant or appropriate requirements (ARAR)]	§ 121(d)	§ 9621(d)
EPA to consult with states before making cleanup decision	§ 104(c)(2)	§ 9604(c)(2)
state assurance to provide long-term operation & maintenance	§ 104(c)(3)	§ 9604(c)(3)
tribes to be treated as states regarding input to cleanup decision-making [possible environmental justice issue: concurrence on permanent relocation of tribal members]	§ 126	§ 9626
liability for natural resource damages and restoration, in addition to cleanup responsibilities	§ 107(a)(4)(C), (f), § 301(c)	§ 9607(a)(4)(C), (f), § 9651(c)
Information Gathering		
time frame for EPA to complete preliminary assessments of CERCLIS facilities (applicable only to facilities listed after 10-17-86)	§ 116(a), (b)	§ 9616(a), (b)
EPA information requests [possible environmental justice issue: request info, access facilities and documents, inspect, take samples]	§ 104(e)	§ 9604(e)
ATSDR to provide consultation on exposure to hazardous substances when requested by EPA	§ 104(i)(4)	§ 9604(i)(4)
ATSDR or states authorized to conduct health assessments to determine whether to reduce human exposure to hazardous substances [possible environmental justice issue: health assessment to consider all potential risk factors, not just NPL site, and potential susceptibility of community]	§ 104(i)(6)	§ 9604(i)(6)
Enforcement and Compliance Assurance		
failure to report hazardous substance releases	§ 103(b)	§ 9603(b)
judicial civil penalties for violation of order	§ 106(b), § 122(*l*)	§ 9606(b), § 9622(*l*)
civil action to compel compliance with information request or access order	§ 104(e)(5)(B)	§ 9604(e)(5)(B)
administrative and judicial civil penalties	§ 109	§ 9609
treble damages for failure to comply with EPA cleanup order and EPA conducts cleanup	§ 107(c)(3)	§ 9607(c)(3)
authorizes state enforcement of standards applicable to a cleanup	§ 121(e)(2)	§ 9621(e)(2)
Major Federal Actions - no applicable provisions		

COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT ("SUPERFUND")	CERCLA Statutory Section or Regulation	United States Code Section in Title 42
LEGAL TOOLS		
Petitions		
petition for preliminary assessment of hazard to human health and environment (http://www.epa.gov/r10earth/offices/oec/pa_petit.pdf; petitions can be ordered from the National Technical Information Service, doc. PB90-273-723)	§ 105(d)	§ 9605(d)
Citizen Suits		
against anyone violating requirements, or against EPA to enforce non-discretionary duty	§ 310	§ 9659
AVAILABLE RESOURCES		
Funding of Public Participation		
technical assistance grants [possible environmental justice issue: obtain technical assistance to interpret technical information, $50,000 maximum, renewable]	§ 117(e)	§ 9617(e)
Ombudspersons - no applicable provisions		
Grants Available - no applicable provisions		
Program Funding		
funds available for natural resource damages and restoration, including on tribal land	§ 111(b)	§ 9611(b)
reimburse local community for emergency cleanup expenses ($25,000 maximum)	§ 123	§ 9623

FEDERAL WATER POLLUTION CONTROL ACT, "CLEAN WATER ACT"

The Federal Water Pollution Control Act, or Clean Water Act (CWA), reflects Congress' intent first to control and then to eliminate all pollutant discharges into U.S. waters. The statute sets a "zero-discharge" goal for toxic pollutants.

In trying to reach this goal, EPA has authority to set national standards. It has set technology-based standards for point sources (sources of pollution that enter the water at one point, like a pipe), defining for specific types of pollution sources what is "best available technology," "best practicable control technology," or similar standards. EPA has also set standards that limit the amount of toxic chemicals that can be discharged into water.

States are also involved in setting standards to help reach the goal of eliminating water pollution. States set standards for the level of water quality to be achieved in a specific segment of the receiving water in order to meet the uses that people make of the water. These "designated uses" include uses such as the "fishable/swimmable" standard.

Any person discharging pollutants from a point source into water must receive a permit that limits the level of pollutants allowed in the discharge (known as a National Pollutant Discharge Elimination System [NPDES] permit). In issuing the NPDES permit, the state, or EPA, use various methods to apply technology-based and water quality standards to the specific discharger applying for a permit.

The CWA also regulates activities in wetlands. No one can discharge "dredge or fill material" into a water body or a wetland without a permit issued by the U.S. Army Corps of Engineers.

States and tribes can be delegated authority to administer the CWA program within their boundaries, and to issue NPDES and dredge and fill permits.

FEDERAL WATER POLLUTION CONTROL ACT

FEDERAL WATER POLLUTION CONTROL ACT ("CLEAN WATER ACT")	CLEAN WATER ACT STATUTORY SECTION OR REGULATION	UNITED STATES CODE SECTION IN TITLE 33
NOTICE AND PARTICIPATION		
Notice and Comment		
public review and comment for annual revisions of guidelines for incorporating technology-based standards into facility-specific effluent limitations	§ 304(m)	§ 1314(m)
public notice and comment for triennial review of toxic pollutant effluent limitations	§ 307(a)(2), (a)(3)	§ 1317(a)(2), (a)(3)
public notice and comment before issuing dredge and fill activity permit	§ 404(a)	§ 1344(a)
Public Hearings/Meetings		
public hearing for triennial review of state's designation of in-stream uses to be protected via water-quality-based standards	§ 303(c)(1)	§ 1313(c)(1)
opportunity for public hearing before issuance of NPDES permit for discharge of pollutants to navigable water	§ 402(a)(1)	§ 1342(a)(1)
state may request public hearing when EPA proposes to veto issuance of dredge-and-fill activity permit	§ 404(j)	§ 1344(j)
public hearing opportunity when state requests delegation of authority to administer program	§ 402(b)	§ 1342(b)
Citizen Advisory Groups - no applicable provisions		
AVAILABLE INFORMATION		
Clearinghouses/Databases - no applicable provisions		
Public Education - no applicable provisions		
Facility Monitoring Data/Recordkeeping		
permit holders' recordkeeping and monitoring requirements	§ 308(a)	§ 1318(a)
Agency Inspections		
EPA/state right of entry to inspect and take samples; authority to request information from point source owner/operator	§ 308(a)	§ 1318(a)

FEDERAL WATER POLLUTION CONTROL ACT ("CLEAN WATER ACT")	CLEAN WATER ACT STATUTORY SECTION OR REGULATION	UNITED STATES CODE SECTION IN TITLE 33
AVAILABLE INFORMATION		
Reporting		
states to report to EPA every two years on water quality within state and progress toward meeting water quality goals [possible environmental justice issue: disproportionate water quality impacts within state]	§ 305(b)	§ 1315(b)
Local Repositories - no applicable provisions		
LEGAL RULES AND OPPORTUNITES		
Standard Setting		
technology-based standards for point source discharges (secondary treatment for publicly owned treatment works, best practicable control technology, best available technology, best conventional pollutant control technology)	§ 301(b)	§ 1311(b)
best available technology requirements for certain nonconventional pollutants may be modified if still protective of human health and the environment [possible environmental justice issue: take into account bioaccumulation and synergistic effects]	§ 301(g)	§ 1311(g)
secondary treatment requirements for publicly owned treatment works that discharge into marine waters may be modified if still protective [possible environmental justice issue: take into account cumulative risks]	§ 301(h)	§ 1311(h)
guidelines for incorporating technology-based standards into facility-specific effluent limitations	§ 304(b)	§ 1314(b)
water-quality-based standards for point source discharges to protect all uses of receiving water body [possible environmental justice issue: fishable/swimmable water quality standard; uses to be protected are identified by states; triennial review]	§ 303(c)	§ 1313(c)
standards governing disposal of sewage sludge resulting from municipal waste treatment [possible environmental justice issue: especially toxic pollutants]	§ 405	§ 1345
Rulemaking		
discharge of toxic pollutants to meet best available technology level of control (e.g., may include outright ban on polychlorinated biphenyls [PCBs])	§ 307	§ 1317
individual control strategies for toxic pollutant "hotspots" (annual review)	§ 304(*l*)	§ 1314(*l*)
development of total maximum daily loads (TMDL) to allocate pollutant loads among sources to ensure that in-stream water-quality-based standards are met [possible environmental justice issue: subsistence uses to be considered; assumptions regarding average fish consumption; must include toxic pollutants]	§ 303(d)	§ 1313(d)

FEDERAL WATER POLLUTION CONTROL ACT ("CLEAN WATER ACT")	CLEAN WATER ACT STATUTORY SECTION OR REGULATION	UNITED STATES CODE SECTION IN TITLE 33
LEGAL RULES AND OPPORTUNITES		
Permitting and Other Approvals		
EPA discretion to set effluent limitations to meet water-quality-based standards	§ 302(a)	§ 1312(a)
NPDES permits for point source discharges to navigable waters	§ 402(a)(1)	§ 1342(a)(1)
EPA authority to review and object to state-issued NPDES permits (right of review can be waived when program authority delegated to state)	§ 402(d)	§ 1342(d)
NPDES permit to be denied for new source or new discharger if cannot demonstrate that water quality standards will/can be met	40 C.F.R. § 122.4(i)	not applicable
authority to modify existing NPDES permit based on new information demonstrating that water quality standards cannot be met	40 C.F.R. § 122.62(a)(2)	not applicable
dredge-and-fill activity permit requirement (administered by U.S. Army Corps of Engineers)	§ 404(a)	§ 1344(a)
EPA retains veto power over dredge-and-fill activity permits	§ 404(c)	§ 1344(c)
EPA authority to review state-issued dredge-and-fill activity permits	§ 404(j)	§ 1344(j)
Siting		
dredge-and-fill activity permits to consider siting issues [possible environmental justice issue: alternatives to proposed project, mitigation measures; cumulative impacts; case-by-case balancing]	§ 404(a)	§ 1344(a)
dredge-and-fill activity permitting guidelines [possible environmental justice issue: no "practicable alternatives"; no significant degradation to surrounding aquatic ecosystem]	§ 404(b)(1)	§ 1344(b)(1)
Cleanup Decisions - no applicable provisions		
Information Gathering		
EPA/state right of entry to inspect and take samples; authority to request information from point source owner/operator	§ 308(a)	§ 1318(a)
EPA's "authorized representatives" can conduct monitoring and inspection activities [possible environmental justice issue: could include community residents]	§ 308(b)	§ 1318(b)
Enforcement and Compliance Assurance		
EPA enforcement authorities for violations (administrative orders; civil actions; criminal, civil and administrative penalties)	§ 309	§ 1319
Army Corps of Engineers and EPA have enforcement authority for dredge-and-fill violations	§ 404(s), § 404(n)	§ 1344(s), § 1344(n)
"imminent and substantial endangerment" enforcement authority	§ 504	§ 1364

FEDERAL WATER POLLUTION CONTROL ACT ("CLEAN WATER ACT")	CLEAN WATER ACT STATUTORY SECTION OR REGULATION	UNITED STATES CODE SECTION IN TITLE 33
LEGAL RULES AND OPPORTUNITES		
Major Federal Actions - no applicable provisions		
LEGAL TOOLS		
Petitions - no applicable provisions		
Citizen Suits		
to enforce violations of the statute, or against EPA to enforce non-discretionary duty	§ 505	§ 1365
AVAILABLE RESOURCES		
Funding of Public Participation - no applicable provisions		
Ombudspersons - no applicable provisions		
Grants Available		
grants available for research and development, including demonstration projects for improved technologies to reduce various discharges and agricultural pollution	§ 105	§ 1255
grants available for research and demonstration projects related to "safe and beneficial management and use" of sewage sludge	§ 405(g)	§ 1345(g)
financial and technical assistance available for research and demonstration projects in significant water bodies (Great Lakes, Alaskan villages, Lake Tahoe, the Hudson River, Chesapeake Bay, Long Island Sound, Lake Champlain)	§ 108, § 118, §113, § 114, § 116, § 117, § 119, § 120	§ 1258, § 1263, § 1264, §§ 1266-1270
Program Funding		
grants to states to administer programs for prevention, reduction and elimination of pollution	§ 106	§ 125
grants to states and tribes to implement nonpoint source management programs	§ 319(h), § 518(f)	§ 1329(h), § 1377(f)

THE EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW ACT

The Emergency Planning and Community Right-to-Know Act (EPCRA) establishes programs that impose reporting requirements on owners and operators of certain facilities. These reports are available to the public with certain limited exceptions.

For example, facilities that use or store certain amounts of hazardous or extremely hazardous chemicals must provide information about how they manage these materials to state and local emergency committees (state emergency response commissions [SERC] and local emergency planning commissions [LEPC]), so that the state and local officials can develop emergency response plans for use in the case of a catastrophic event at the facility.

In addition, facilities in most industrial categories must annually report the quantities of toxic chemicals that they release into the environment, whether or not these toxic chemicals are covered by an environmental permit. These annual reports are collected by EPA in a central database called the Toxics Release Inventory (TRI), which is accessible by the public and which is shared with local and state emergency planning officials.

EPCRA also imposes reporting requirements for spills and other accidental releases of toxic chemicals.

EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW ACT

EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW ACT	EPCRA STATUTORY SECTION OR REGULATION	UNITED STATES CODE SECTION IN TITLE 42
NOTICE AND PARTICIPATION		
Notice and Comment - no applicable provisions		
Public Hearings/Meetings - no applicable provisions		
Citizen Advisory Groups - no applicable provisions		
AVAILABLE INFORMATION		
Clearinghouses/Databases		
National Toxic Chemical Inventory (data submitted to EPA under toxic chemical release reporting) (http://www.epa.gov/tri)	§ 313(j)	§ 11023(j)
Alphabetical List of Extremely Hazardous Substances (http://www.epa.gov/swercepp/ehs/ehsalpha.html)	§ 302	§ 11002
Public Education		
mass balance information (annual quantity of chemicals managed at a facility)	§ 313(*l*)	§ 11023(*l*)
EPA review of emergency systems for monitoring, detecting and preventing releases of extremely hazardous substances at representative facilities	§ 305(b)	§ 11005(b)
annual public notice by LEPC identifying where to find emergency response plans, material safety data sheets (MSDS) and inventory forms that have been submitted	§ 324(b)	§ 11044(b)
Facility Monitoring Data/Recordkeeping - no applicable provisions		
Agency Inspections - no applicable provisions		
Reporting		
SERC to designate coordinator for information requests from public	§ 301(a)	§ 11001(a)
LEPC to designate coordinator for information requests from public	§ 301(b)	§ 11001(b)
LEPC to gather information from local industry and develop emergency plan and review annually	§ 303	§ 11003
emergency response plans, MSDS, list of chemicals, inventory form, toxic chemical release form, and follow-up emergency notice available to general public during normal working hours at designated locations	§ 324(a)	§ 11044(a)

EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW ACT	EPCRA STATUTORY SECTION OR REGULATION	UNITED STATES CODE SECTION IN TITLE 42
AVAILABLE INFORMATION		
Reporting		
facilities that store/use hazardous substances to notify SERC and/or LEPC; SERCs to notify EPA (http://www.epa.gov/ceppo/serclist.htm; http://www.epa.gov/ceppo/epclist.htm)	§ 302(c)	§ 11002(c)
facilities to report (telephone and written) releases of certain chemicals to state and local authorities [possible environmental justice issue: include any known or anticipated health risks; advice regarding medical attention necessary for exposed individuals]	§ 304, § 313(h)	§ 11004, § 11023(h)
facilities to submit MSDS for all hazardous chemicals managed on-site to state and local emergency officials, including fire departments (list of chemicals may suffice)	§ 311(a), (d)	§ 11021(a), (d)
public requests for MSDS from LEPCs; LEPC to request from facility	§ 311(c)(2)	§ 11021(c)(2)
facilities to submit chemical inventory form to state and local emergency officials, including fire departments [possible environmental justice issue: average daily amounts of chemical on-site and location within facility; may include storage method]	§ 312	§ 11022
facilities to submit to EPA and state officials toxic chemical release form for certain chemicals used in past year (forms due 7/1 of each year)	§ 313(a), (g)	§ 11023(a), (g)
request to SERC or LEPC for tier II information on particular facility	§ 312(e)(3)	§ 11022(e)(3)
Local Repositories - no applicable provisions		
LEGAL RULES AND OPPORTUNITIES		
Standard Setting - no applicable provisions		
Rulemaking		
list of extremely hazardous substances; threshold quantities	§ 302(a)	§ 11002(a)
guidance for preparation/implementation of emergency plans	§ 303(f)	§ 11003(f)
threshold quantities for reporting requirements	§ 311(b), § 312(b), § 313(f)	§ 11021(b), § 11022(b), § 11023(f)
add or delete Standard Industrial Codes (SICs) subject to reporting requirements [possible environmental justice issue: cumulative exposures, sensitive populations, consumption habits]	§ 313(b)	§ 11023(b)
add or delete chemicals subject to reporting requirements	§ 313(d)	§ 11023(d)
modifications to frequency of filing reports	§ 313(i)	§ 11023(i)
procedures for collecting mass balance information	§ 313(*l*)	§ 11023(*l*)

EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW ACT	EPCRA STATUTORY SECTION OR REGULATION	UNITED STATES CODE SECTION IN TITLE 42
LEGAL RULES AND OPPORTUNITES		
Rulemaking		
trade secret information [possible environmental justice issue: specific chemical identities can be withheld, but adverse health effects must be identified]	§ 322(c)	§ 11042(c)
facility owner/operators to report certain information to health professionals	§ 323(e)	§ 11043(e)
Permitting and Other Approvals - no applicable provisions		
Siting - no applicable provisions		
Cleanup Decisions - no applicable provisions		
Information Gathering		
EPA authority to apply reporting requirements to specific facility [possible environmental justice issue: based on proximity to other facilities/population centers, history of releases, other factors]	§ 313(b)(2)	§ 11023(b)(2)
LEPC to develop emergency plan and review annually	§ 303	§ 11003
facility owner/operators to report certain information to health professionals on request (health professionals must make "statement of need"; confidentiality requirements)	§ 323	§ 11043
Enforcement and Compliance Assurance		
EPA compliance orders and administrative civil penalties	§ 325(a)	§ 11045(a)
administrative and judicial civil penalties and criminal penalties for violations of emergency planning notification requirements	§ 325(b)	§ 11045(b)
administrative and judicial civil penalties for violations of reporting requirements	§ 325(c)	§ 11045(c)
administrative and judicial civil penalties for frivolous trade secret claims; criminal penalties for disclosure of trade secrets	§ 325(d)	§ 11045(d)
procedures for health professionals to require submission of facility-specific information	§ 325(e)	§ 11045(e)
Major Federal Actions - no applicable provisions		
LEGAL TOOLS		
Citizen Suits - no applicable provisions		

EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW ACT	EPCRA STATUTORY SECTION OR REGULATION	UNITED STATES CODE SECTION IN TITLE 42
LEGAL TOOLS		
Petitions		
petition to SERC to modify membership of LEPC [possible environmental justice issue: can request representatives sensitive to environmental justice concerns] (http://www.epa.gov/ceppo/serclist.htm)	§ 301(d)	§ 11001(d)
public request for MSDS from LEPC (and make available to public); LEPC to request from facility (http://www.epa.gov/ceppo/lepclist.htm; 40 CFR 370.30)	§ 311(c)(2)	§ 11021(c)(2)
request to SERC or LEPC for tier II information on particular facility	§ 312(e)(3)	§ 11022(e)(3)
petition to add or delete a chemical from list subject to toxic chemical release reporting requirements	§ 313(e)	§ 11023(e)
petition for disclosure of specific chemical identify claimed as trade secret	§ 322(d), (e)	§ 11042(d), (e)
request for adverse health effects information for chemicals not revealed due to claim as trade secret (request to state governor or SERC)	§ 322(h)	§ 11042(h)
AVAILABLE RESOURCES		
Funding of Public Participation - no applicable provisions		
Ombudspersons - no applicable provisions		
Grants Available		
training and education programs to improve emergency planning, preparedness, response and recovery capabilities (available for local governments and universities)	§ 305(a)	§ 11005(a)
Program Funding - no applicable provisions		

FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT/FEDERAL FOOD, DRUG, AND COSMETIC ACT

The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA) together provide the framework for pesticide regulation in the United States. Under FIFRA, EPA is responsible for regulating the manufacture, labeling, sale, and use of pesticides. Under FFDCA, EPA determines the allowable level of pesticide residue in food.

Under national regulations set by EPA, all pesticide labels must include directions for use. EPA has also established the Worker Protection Standard, which provides protections (such as mandatory safety training and availability of personal protective equipment) for agricultural workers and pesticide handlers. EPA has issued national requirements and procedures for the storage, transportation, or disposal of expired pesticides.

Both FIFRA and FFDCA include permit and approval requirements. All pesticides used in the United States must be registered with EPA; the registration can contain limitations on use of the pesticide to protect public health. No food can be sold in the United States that contains more pesticide residues than allowed by EPA rules.

States can, but do not have to, regulate the use of pesticides within their boundaries, as long as the state requirements do not conflict with those of FIFRA or the FFDCA. States can receive authorization from EPA to certify pesticide applicators.

FEDERAL INSECTICIDE, FUGICIDE, AND RODENTICIDE ACT/ FEDERAL FOOD, DRUG, AND COSMETIC ACT

FEDERAL INSECTICIDE, FUGICIDE, AND RODENTICIDE ACT/ FEDERAL FOOD, DRUG, AND COSMETIC ACT	FIFRA STATUTORY SECTION OR FFDCA SECTION	UNITED STATES CODE SECTION IN TITLE 7 OR TITLE 21
NOTICE AND PARTICIPATION		
Notice and Comment		
EPA discretion to solicit views of "qualified persons" when suspending or cancelling pesticide registration	§ 21(c)	§ 136s(c)
notice and comment for pesticide registration applications	§ 3(c)	§ 136a(c)
notice and comment for intent to cancel pesticide registration or change pesticide classification	§ 6(b)	§ 136d(b)
Public Hearings/Meetings		
timely notice in Federal Register for any public hearings	§ 21(d)	§ 136s(d)
objections due 60 days after setting pesticide tolerances or exemptions; public evidentiary hearing to be held if requested	FFDCA § 408(g)	21 U.S.C. § 346a(g)
public hearing on pesticide registration cancellation or change in pesticide classification, if requested	§ 6(d)	§ 136d(d)
Citizen Advisory Groups - no applicable provisions		
AVAILABLE INFORMATION		
Clearinghouses/Databases		
United States Department of Agriculture - Pesticide Data Programs (http://www.usda.gov/science/pdp/index.htm)	not applicable	not applicable
National Pesticide Telecommunications Network (http://www.epa.gov/pesticides/info.htm#hotlines)	not applicable	not applicable
Public Education		
EPA to provide to grocers for public display information regarding dietary exposure to pesticide residues	FFDCA § 408(o)	21 U.S.C. § 346a(o)
worker protection standard info on pesticide labels (mandatory pesticide safety training, notice of pesticide applications, availability of personal protective equipment, etc.)	§ 12(a)	§ 136j(a)
data in pesticide registration to be made public	§ 3(c)	§ 136a(c)
educational and instructional information on integrated pest management to be made available	§ 11(c), § 136r-1 has no FIFRA section number	§ 136i(c), § 136r-1

FEDERAL INSECTICIDE, FUGICIDE, AND RODENTICIDE ACT/ FEDERAL FOOD, DRUG, AND COSMETIC ACT	FIFRA STATUTORY SECTION OR FFDCA SECTION	UNITED STATES CODE SECTION IN TITLE 7 OR TITLE 21
AVAILABLE INFORMATION		
Public Information		
cooperative state extension services to inform and educate pesticide users about accepted uses and FIFRA regulations	§ 23(c)	§ 136u(c)
Facility Monitoring Data/Recordkeeping		
certified applicators of restricted-use pesticides to maintain detailed application records (available on request to federal or state agency)	no FIFRA section number	§ 136i-1(a)(1)
registered pesticide producers recordkeeping requirements (including pesticide disposal information)	§ 8(a)	§ 136f(a)
extensive confidential business information protections	§ 10(b), (d), FFDCA § 408(i)	§ 136h(b), (d), 21 U.S.C. § 346a(i)
Agency Inspections - no applicable provisions		
Reporting		
factual information on unreasonable adverse effects on the environment discovered post-pesticide registration	§ 6(a)	§ 136d(a)
certified pesticide applicators reporting requirements	§ 11(a)	§ 136i(a)
EPA annual report to Congress regarding applications for conditional registration by pesticide producers	§ 29	§ 136w-4
Local Repositories - no applicable provisions		
LEGAL RULES AND OPPORTUNITIES		
Standard Setting - no applicable provisions		
Rulemaking		
pesticide labeling requirements, including directions for use	§ 12(a)	§ 136j(a)
worker protection standard required on labels for agricultural pesticides (mandatory pesticide safety training, notice of pesticide applications, availability of personal protective equipment, etc.)	§ 12(a), 40 CFR Parts 170, 156	§ 136j(a)
storage, transportation or disposal requirements for pesticide stocks	§ 19(a)	§ 136q(a)
data requirements to support pesticide registration	§ 3(c)	§ 136a(c)
Permitting and Other Approvals		
pesticide registration (conditional or unconditional, new or amended) waivers available for certain categories of pesticides	§ 3(c)	§ 136a(c)

FEDERAL INSECTICIDE, FUGICIDE, AND RODENTICIDE ACT/ FEDERAL FOOD, DRUG, AND COSMETIC ACT	FIFRA STATUTORY SECTION OR FFDCA SECTION	UNITED STATES CODE SECTION IN TITLE 7 OR TITLE 21
LEGAL RULES AND OPPORTUNITES		
Permitting and Other Approvals		
imported pesticides to be registered with Secretary of Treasury	§ 3, § 17(c)	§ 136a, § 136o(c)
pesticide use classifications (restricted or general use, or unclassified)	§ 3(d)	§ 136a(d)
EPA to reregister all pesticides initially registered before 11-1-84	§ 4	§ 136a-1
experimental use permits for as-yet unregistered pesticides	§ 5	§ 136c
state certification of pesticide applicators	§ 11(a)	§ 136i(a)
exemptions from any provisions if conditions require	§ 18, FFDCA § 408(*l*)	§ 136(p), 21 U.S.C. § 346a(*l*)
registration of establishments for production of pesticides or active ingredients	§ 7(a)	§ 136e(a)
exported pesticides largely exempt from FIFRA requirements	§ 17(a)	§ 136o(a)
Siting - no applicable provisions		
Cleanup Decisions		
disposition of existing stocks of pesticides with suspended or cancelled registrations	§ 6(a)	§ 136d(a)
Information Gathering		
"data call-in"; request for additional data to support continued pesticide registration [possible environmental justice issue: require pesticide manufacturer to submit data about potential risks of pesticide application]	§ 3(c)	§ 136a(c)
EPA authority to request data relevant to establishing tolerances for chemical residues on or in food	FFDCA § 408(f)	21 U.S.C. § 346a(f)
EPA authority to inspect places where pesticides are located	§ 9(a)	§ 136g(a)
monitoring of man, animals, and their environment for pesticide exposure	§ 20(c)	§ 136r(c)
Enforcement and Compliance Assurance		
EPA notice of intent to cancel pesticide registration or change pesticide classification	§ 6(b)	§ 136d(b)
pesticide registration suspension to prevent imminent hazard	§ 6(c)	§ 136d(c)
recall of pesticide with cancelled or suspended registration	§ 19(b)	§ 136q(b)

FEDERAL INSECTICIDE, FUGICIDE, AND RODENTICIDE ACT/ FEDERAL FOOD, DRUG, AND COSMETIC ACT	FIFRA STATUTORY SECTION OR FFDCA SECTION	UNITED STATES CODE SECTION IN TITLE 7 OR TITLE 21
LEGAL RULES AND OPPORTUNITES		
Enforcement and Compliance Assurance		
EPA authority to modify or revoke tolerance or exemption for pesticide residues	FFDCA § 408(e), (f)	21 U.S.C. § 346a(e), (f)
EPA authority to seize pesticides or devices that cause unreasonable adverse effects	§ 13(b)	§ 136k(b)
administrative civil penalties for violations	§ 14(a)	§ 136l(a)
multiple remedies for misuse or improper disposal of suspended, canceled or recalled pesticides	§ 19(d)	§ 136q(d)
complaints to EPA alleging pesticide use violations are referred to state for enforcement action (if no action taken within 30 days, EPA may enforce)	§ 27(a)	§ 136w-2(a)
Major Federal Actions - no applicable provisions		
LEGAL TOOLS		
Petitions - no applicable provisions		
Citizen Suits - no applicable provisions		
AVAILABLE RESOURCES		
Funding of Public Participation - no applicable provisions		
Ombudspersons - no applicable provisions		
Grants Available - no applicable provisions		
Program Funding - no applicable provisions		

NATIONAL ENVIRONMENTAL POLICY ACT

The National Environmental Policy Act (NEPA) sets up a process by which the federal government must evaluate the environmental impacts of any major actions that it plans to take. Based on its evaluation, the government should choose the federal action that will have the least impact on the environment, while achieving its intended goal.

Specifically before the federal government undertakes any "major federal action," including any type of construction, it must conduct an environmental impact analysis and compare various alternative actions, including a "no action" alternative. Several levels of analysis are permitted. The government agency proposing to take a major federal action must first decide whether or not the proposed action will have any significant environmental impacts. This initial thought process is documented in an environmental assessment (EA). If no significant environmental impact is anticipated, a finding of no significant impact (FONSI) is prepared. If the government agency decides that there may be some environmental impact, it goes through a scoping process to define those possible impacts. The government then prepares an environmental impact statement (EIS) analyzing various alternatives to the project and their relative impact on the environment.

Based on the environmental impact analysis in the EIS and the public comments the agency receives on the draft EIS, the proposing agency issues a final EIS. The final EIS identifies the preferred alternative to the project. Generally, the selection of the proposed alternative is reflected in a ROD.

The responsibility to prepare an EIS under NEPA rests solely with the federal government. States' views are solicited in the process and are considered by the proposing agency, but states do not have a decisionmaking role.

NATIONAL ENVIRONMENTAL POLICY ACT

NATIONAL ENVIRONMENTAL POLICY ACT	NEPA STATUTORY SECTION OR OTHER REFERENCE INDICATED	UNITED STATES CODE SECTION IN TITLE 42
NOTICE AND PARTICIPATION		
Notice and Comment		
public notice of NEPA-related hearings, public meetings, availability of environmental documents [possible environmental justice issue: EPA to implement public participation for EA whenever social/economic impacts are perceived to be substantial] (EPA Environmental Justice Guidance can be found at: http://es.epa.gov/oeca/ofa/ejepa.html.)	40 C.F.R. § 1506.6(a), EPA EJ Guidance	not applicable, not applicable
public notice of FONSI	40 C.F.R. § 1501.4(e), 40 C.F.R. § 6.400(d)	not applicable, not applicable
EPA to solicit community input on environmental justice screening analysis (EPA Environmental Justice Guidance can be found at: http://es.epa.gov/oeca/ofa/ejepa.html.)	EPA EJ Guidance	not applicable
communities to be involved in deciding appropriate scope of EIS (federal agency to decide best methods for involving public) (CEQ 12-10-97 Environmental Justice Guidance can be found at: http://ceq.eh.doe.gov/nepa/regs/ej/justice.pdf.) (EPA Environmental Justice Guidance can be found at: http://es.epa.gov/oeca/ofa/ejepa.html.)	CEQ EJ Guidance, EPA EJ Guidance	not applicable, not applicable
public notice and comment period for draft EIS (minimum 45 days)	40 C.F.R. § 1506.10	not applicable

NATIONAL ENVIRONMENTAL POLICY ACT	NEPA STATUTORY SECTION OR OTHER REFERENCE INDICATED	UNITED STATES CODE SECTION IN TITLE 42
NOTICE AND PARTICIPATION		
Notice and Comment		
public comment may be requested on final EIS before agency makes decision	40 C.F.R. § 1503.1(b)	not applicable
Public Hearings/Meetings		
public hearings or meetings where there exists substantial environmental controversy concerning proposed action	40 C.F.R. § 1506.6(c)	not applicable
public hearing required for draft EIS	40 C.F.R. § 6.400(c)	not applicable
Citizen Advisory Groups - no applicable provisions		
AVAILABLE INFORMATION		
Clearinghouses/Databases - no applicable provisions		
Public Education - no applicable provisions		
Facility Monitoring Data/Recordkeeping - no applicable provisions		
Agency Inspections - no applicable provisions		
Reporting - no applicable provisions		
Local Repositories - no applicable provisions		
Miscellaneous		
materials to be made available without charge to extent practicable (or at cost)	40 C.F.R. § 1506.6(a), FOIA	not applicable, not applicable
LEGAL RULES AND OPPORTUNITIES		
Standard Setting - no applicable provisions		
Rulemaking		
all federal policies, regulations and public laws to be interpreted and administered in accordance with NEPA	§ 102(1)	§ 4332(1)
Permitting and Other Approvals - no applicable provisions		

NATIONAL ENVIRONMENTAL POLICY ACT	NEPA STATUTORY SECTION OR OTHER REFERENCE INDICATED	UNITED STATES CODE SECTION IN TITLE 42
LEGAL RULES AND OPPORTUNITIES		
Siting		
EIS required for any "major federal action" [possible environmental justice issue: environmental justice concerns to be specifically identified and addressed - six principles listed in CEQ 12-10-97 EJ Guidance] (CEQ 12-10-97 Environmental Justice Guidance can be found at: http://ceq.eh.doe.gov/nepa/regs/ej/justice.pdf.)	§ 102(2), CEQ 12-10-97 EJ Guidance	§ 4332(2), not applicable
EPA to review and comment on EISs prepared by other federal agencies	CAA § 309	§ 7609
Cleanup Decisions - no applicable provisions		
Information Gathering - no applicable provisions		
Enforcement and Compliance Assurance - no applicable provisions		
Major Federal Actions		
EIS required for any "major federal action" [possible environmental justice issue: environmental justice concerns to be specifically identified and addressed - six principles listed in CEQ 12-10-97 EJ Guidance ("major federal action" = policies, plans, programs, or projects)] (CEQ 12-10-97 Environmental Justice Guidance can be found at: http://ceq.eh.doe.gov/nepa/regs/ej/justice.pdf.)	§ 102(2), CEQ 12-10-97 EJ Guidance, 40 C.F.R. § 1500.1(c)	§ 4332(2), not applicable, not applicable
EPA to review and comment on EISs prepared by other federal agencies, and refer to CEQ those actions which are "unsatisfactory" for public health and welfare or environment [possible environmental justice issue: EPA reviews whether appropriate data was analyzed and whether public adequately informed/involved; EPA to focus specifically on potential environmental justice issues]	CAA § 309	§ 7609
decision whether federal action warrants preparation of full EIS or EA, or FONSI [possible environmental justice issue: EPA to conduct environmental justice screening analysis and small-scale scoping analysis; socio-economic analysis]	40 C.F.R. § 1508.9(a), § 1501.4	not applicable, not applicable
scoping of issues for EIS	40 C.F.R. § 1501.7, § 1508.25	not applicable
EIS to evaluate reasonable alternatives to avoid or minimize adverse impacts or enhance quality of human environment [possible environmental justice issue: alternatives must include no action; mitigation measures; identification of potential impact area to include demographic data; environmental justice-specific impacts based on resource use and interaction with environment; environmental consequences to include socio-economic factors, direct and indirect impacts, cumulative impact, community acceptance]	40 C.F.R. § 1502, § 1508.20, § 1508.8, § 1508.7, § 1508.14	not applicable

NATIONAL ENVIRONMENTAL POLICY ACT	NEPA STATUTORY SECTION OR OTHER REFERENCE INDICATED	UNITED STATES CODE SECTION IN TITLE 42
LEGAL RULES AND OPPORTUNITIES		
Major Federal Actions		
agency issues final EIS and ROD [possible environmental justice issue: must identify and discuss all alternatives; respond to all public comments received; include monitoring and enforcement program for mitigation measures; ROD must state whether proposed action will or will not have disproportionately high impact on environmental justice communities and describe mitigation]	40 C.F.R. § 1505.2	not applicable
tribes and state/local governments may become a "cooperating agency" and participate in scoping and environmental analysis portions of EIS	40 C.F.R. § 1508.5, § 1501.6	not applicable
LEGAL TOOLS		
Petitions - no applicable provisions		
Citizen Suits - no applicable provisions		
AVAILABLE INFORMATION		
Funding of Public Participation		
EPA to provide technical assistance to ensure thorough understanding of proposed federal action (EPA Environmental Justice Guidance can be found at: http://es.epa.gov/oeca/ofa/ejepa.html.)	EPA EJ Guidance	not applicable
Ombudspersons - no applicable provisions		
Grants Available - no applicable provisions		
Program Funding - no applicable provisions		

THE RESOURCE CONSERVATION AND RECOVERY ACT

The Resource Conservation and Recovery Act (RCRA) is the primary federal law regulating the management and disposal of solid and hazardous waste. Subtitle C of the statute creates a complicated system designed to manage hazardous waste from its creation, through its transportation, to its ultimate disposal. The statute has other provisions dealing with non-hazardous solid waste (primarily municipal garbage), underground storage tanks, used oil, and medical waste. This handbook and chart mostly include RCRA provisions on hazardous waste.

Under RCRA, EPA has identified and created a list of chemical substances and industrial process wastes that it considers hazardous and subject to RCRA regulation. Any person who creates hazardous waste as defined in these lists (called a "generator"), must manage and store these wastes in accordance with EPA regulations. Similarly, EPA has established requirements by regulation for anyone who transports hazardous waste. One of the primary requirements for both generators and transporters is that all hazardous waste must be disposed of in a permitted hazardous waste facility. The most extensive RCRA requirements apply to hazardous waste treatment, storage, and disposal facilities.

Most facilities that deal with hazardous waste (whether by creating it and storing it on-site for more than 90 days, or as a disposal facility) must have a permit issued under RCRA. As part of a RCRA permit, any facility that has hazardous waste on-site from past operations (including spills) must evaluate the environmental impact of that remaining waste and propose "corrective action" to clean it up as part of the permit.

States can obtain authorization to administer the RCRA hazardous waste program. Since many additional requirements were added in the 1984 amendments to RCRA (a statute known as the Hazardous and Solid Waste Amendments Act of 1984), states have had to apply for supplemental authorization to administer these requirements. Thus, in many cases, the state will issue the basic RCRA permit, but EPA will still be the agency that determines what corrective action (if any) is required for past hazardous waste disposal at the permitted facility.

Subtitle D of RCRA requires the development of state or regional solid waste plans to manage the disposal of "solid waste," which includes municipal garbage and non-hazardous industrial wastes. Under this part of RCRA, EPA also has developed technical construction standards for "sanitary landfills" – facilities that accept solid waste for treatment and disposal. Finally, Congress required that "open dumps" (places where garbage was put on the ground without any environmental protections) must be closed or upgraded.

RESOURCE CONSERVATION AND RECOVERY ACT

RESOURCE CONSERVATION AND RECOVERY ACT	RCRA STATUTORY SECTION OR REGULATION	UNITED STATES CODE SECTION IN TITLE 42
NOTICE AND PARTICIPATION		
Notice and Comment - no applicable provisions		
Public Hearings/Meetings		
public hearing to be held if EPA receives written notice of opposition	§ 7004(b)(2)	§6974(b)(2)
Citizen Advisory Groups		
Expanded Public Participation Rule - informal public meetings between permit applicants and affected communities (must occur *before* permit application submitted)	40 C.F.R. Part 270	not applicable

RESOURCE CONSERVATION AND RECOVERY ACT	RCRA STATUTORY SECTION OR REGULATION	UNITED STATES CODE SECTION IN TITLE 42
AVAILABLE INFORMATION		
Clearinghouses/Databases - no applicable provisions		
Public Education - no applicable provisions		
Facility Monitoring Data/Recordkeeping		
generators' recordkeeping requirements [possible environmental justice issue: emergency planning documents]	§ 3002(a)	§ 6922(a)
transporters' recordkeeping requirements [possible environmental justice issue: shipment manifests]	§ 3003(a)	§ 6923(a)
treatment, storage, disposal facilities requirements [possible environmental justice issue: recordkeeping]	§ 3004(a)	§ 6924(a)
EPA information requests to "handler" of hazardous waste (all information received open to public)	§ 3007(a), (b)	§ 6927(a), (b)
EPA-ordered monitoring	§ 3013, § 3008(d)	§ 6934, § 6928(d)
Agency Inspections		
EPA authority to inspect facilities and obtain samples (information to be publicly available)	§ 3007(a)	§ 6927(a)
Reporting		
generators' annual waste minimization reports	§ 3002(a)(6)(C)	§ 6922(a)(6)(C)
generators' certification of existence of waste minimization program	§ 3002(b)	§ 6922(b)
generators' biennial reporting	§ 3002(a)	§ 6922(a)
treatment, storage, disposal facility reporting	§ 3004(a)	§ 6924(a)
states to report to EPA an inventory of all sites at which hazardous waste has at any time been stored or disposed	§ 3012(a)	§ 6933(a)
federal agencies to provide EPA with inventory of all federally-owned or operated hazardous waste sites	§ 3016	§ 6937
Local Repositories - no applicable provisions		
LEGAL RULES AND OPPORTUNITIES		
Standard Setting - no applicable provisions		

RESOURCE CONSERVATION AND RECOVERY ACT	RCRA STATUTORY SECTION OR REGULATION	UNITED STATES CODE SECTION IN TITLE 42
LEGAL RULES AND OPPORTUNITES		
Rulemaking		
general rulemaking authority	§ 2002(a)(1)	§ 6912(a)(1)
hazardous waste listing and identification criteria [possible environmental justice issue: assessment of risk]	§ 3001	§ 6921
generator standards	§ 3002(a)	§ 6922(a)
transporter standards	§ 3003(a)	§ 6923(a)
transporter standards, in consultation with the Department of Transportation	§ 3003(b)	§ 6923(b)
treatment, storage, disposal facility standards	§ 3004(a)	§ 6924(a)
treatment, storage, disposal facility location standards	§ 3004(o)(7)	§ 6924(o)(7)
monitoring and controlling air emissions at treatment, storage, and disposal facilities	§ 3004(n)	§ 6924(n)
non-hazardous wastes	§§ 4001-4010	§§ 6941-6949a
guidelines to assist in development and implementation of state solid waste management plans	§ 4002(b), § 4002(c)(9)	§ 6942(b), § 6942(c)(9)
criteria for determining which facilities are "open dumps" or "sanitary landfills"	§ 4004(a)	§ 6944(a)
underground storage tanks	§§ 9001-9010	§§ 6991-6991i
Permitting and Other Approvals		
hazardous waste permitting omnibus authority [possible environmental justice issue: presence of sensitive subpopulations, unique exposure pathways, risk aggregation - environmental justice impacts must be related to human health and environment, not social and economic impacts alone]	§ 3005(c)(3)	§ 6925(c)(3)
land disposal permits [possible environmental justice issue: reasonably foreseeable releases, potential pathways, nature and magnitude of human exposure]	§ 3019	§ 6939a
non-hazardous waste management facilities that receive household and small quantity generator hazardous waste	§ 4005	§ 6945
Siting		
treatment, storage, disposal facility standards [possible environmental justice issue: location, design, and construction of facility]	§ 3004(a)	§ 6924(a)
treatment, storage, disposal facility location standards	§ 3004(o)(7)	§ 6924(o)(7)

RESOURCE CONSERVATION AND RECOVERY ACT	RCRA STATUTORY SECTION OR REGULATION	UNITED STATES CODE SECTION IN TITLE 42
LEGAL RULES AND OPPORTUNITES		
Cleanup Decisions		
corrective action for permitted facilities	§ 3004(u),(v), § 3008(h)	§ 6924(u),(v), § 6928(h)
"imminent and substantial endangerment" court action	§ 7003	§ 6973
Information Gathering		
ATSDR health assessments for land disposal facilities authorized [possible environmental justice issue: public may submit evidence of release or exposure]	§ 3019	§ 6939a
EPA information requests to "handler" of hazardous waste [possible environmental justice issue: allow entry, inspection and sampling; all info received open to public]	§ 3007(a), (b)	§ 6927(a), (b)
EPA-ordered monitoring [possible environmental justice issue: EPA can do monitoring or authorize "any person" to do it at company expense]	§ 3013, § 3008(d)	§ 6934, § 6928(d)
Enforcement and Compliance Assurance		
EPA compliance orders, suspension/revocation of permits, administrative civil penalties [possible environmental justice issue: factors for civil penalty assessment include environmental significance/intensity and context of impacts]	§ 3008	§ 6928
criminal penalties/placing "another person in imminent danger of death or serious bodily injury"	§ 3008(d), (e)	§ 6928(d), (e)
"imminent and substantial endangerment" court action	§ 7003	§ 6973
Major Federal Actions - no applicable provisions		
LEGAL TOOLS		
Petitions - no applicable provisions		
Citizen Suits		
against anyone violating requirements, or against EPA to enforce non-discretionary duty; to correct imminent and substantial endangerment to health or environment	§ 7002(a)	§ 6972(a)
Funding of Public Participation - no applicable provisions		
Ombudspersons - no applicable provisions		

RESOURCE CONSERVATION AND RECOVERY ACT	RCRA STATUTORY SECTION OR REGULATION	UNITED STATES CODE SECTION IN TITLE 42
AVAILABLE RESOURCES		
Grants Available		
grants for training regarding occupations involving solid waste facilities [possible environmental justice issue: could train local residents for skilled positions at nearby solid waste facilities]	§ 7007	§ 6977
Program Funding		
financial assistance for state solid waste management plans that contain resource recovery and conservation components	§ 4008	§ 6948
federal assistance in planning and implementing energy and materials conservation and recovery programs should be available to all communities on an equitable basis	not applicable	§ 6941a(6)

SAFE DRINKING WATER ACT

The Safe Drinking Water Act (SDWA) has two principal programs: regulating public water systems and the quality of water they provide for human consumption, and protecting underground sources of drinking water from contamination (known as the "underground injection control" or UIC program).

In regulating the quality of public drinking water, EPA has established national primary and secondary drinking water standards. EPA calls these standards maximum contaminant levels (MCLs) and maximum contaminant level goals (MCLGs). Variances and exemptions from these national drinking water standards are available for various reasons.

Virtually every state has received authorization from EPA to administer the safe drinking water program within its boundaries. This means that the state decides whether a public water system qualifies for a variance or exemption from national drinking water standards. The state is also responsible for enforcement of the national standards.

The SDWA program to control underground injection of contaminants and to protect underground drinking water supplies is administered primarily at the state level. EPA has established five classes of underground injection wells, with differing requirements for each class. States issue permits on the basis of these regulations, and no underground injection of polluting substances is allowed without a permit.

SAFE DRINKING WATER ACT

SAFE DRINKING WATER ACT	SDWA STATUTORY SECTION OR REGULATION	UNITED STATES CODE SECTION IN TITLE 42
NOTICE AND PARTICIPATION		
Notice and Comment		
public notice and comment before granting facility-specific variance to national primary drinking water standards	§ 1415(a)(1)	§ 300g-4(a)(1)
public notice and comment for EPA's 3-year review of variances and exemptions granted to national primary drinking water standards	40 C.F.R. § 142.22	not applicable
public notice and comment on state's plan of intended uses for drinking water treatment revolving loan fund	§ 1452(b)	§ 300j-12(b)
Public Hearings/Meetings		
public hearing on EPA notice to revoke variance from, or revise compliance schedule for, attaining national primary drinking water standards	40 C.F.R § 142.23	not applicable
public hearing before exemption granted from national primary drinking water standards due to compelling factors	§ 1416	§ 300g-5
public hearing and "reasonable opportunity for presentation of views" before EPA acts on state's application to administer underground injection control program	§ 1422(b)	§ 300h-1(b)
Citizen Advisory Groups		
National Drinking Water Advisory Council (15 members, 5 of them from "general public" and 5 from private organizations/groups)	§ 1446	§ 300j-5

SAFE DRINKING WATER ACT	SDWA STATUTORY SECTION OR REGULATION	UNITED STATES CODE SECTION IN TITLE 42
NOTICE AND PARTICIPATION		
Citizen Advisory Groups		
states to establish technical and citizens' advisory committees to encourage public participation in developing underground injection control program	§ 1428(b)	§ 300h-7(b)
AVAILABLE INFORMATION		
Clearinghouses/Databases		
database of occurrence of regulated and unregulated contaminants in public water systems	§ 1445(g)	§ 300j-4(g)
Public Education		
information supporting regulations on MCLs must identify population-specific health effects [possible environmental justice issue: info to be communicated in meaningful way]	§ 1412(b)(3)(B)	§ 300g-1(b)(3)(B)
results of EPA's periodic review of variances granted by states to small systems to be made public	§ 1415(e)(8)(A)	§ 300g-4 (e)(8)(A)
results of EPA's triennial review of exemptions granted by states to be made public	§ 1416(d)	§ 300g-5(d)
Facility Monitoring Data/Recordkeeping		
recordkeeping, monitoring, and reporting requirements	§ 1445	§ 300j-4
monitoring programs that public water systems must implement for unregulated contaminants [possible environmental justice issue: representative sampling for systems with less than 10,000 users; users of system to be notified of monitoring results]	§ 1445(a)(2)	§ 300j-4(a)(2)
Agency Inspections		
EPA authority to inspect and take samples from public drinking water supplies	§ 1445(b)	§ 300j-4(b)
Reporting		
community water systems to mail annual report on level of contaminants in drinking water system to customers ("community water system" has 15+ service connections for year-round customers or 25+ year-round customers) [possible environmental justice issue: "consumer confidence report" to include plainly worded information]	§ 1414(c)(4)(A)	§ 300g-3(c)(4)(A)
annual reports by public water systems, states and EPA about SDWA violations (http://www.epa.gov/safewater/dwinfo.htm)	§ 1414(c)	§ 300g-3(c)
EPA determination that sole source aquifer, if contaminated, could create significant hazard to public health	§ 1424(e)	§ 300h-3(e)

SAFE DRINKING WATER ACT	SDWA STATUTORY SECTION OR REGULATION	UNITED STATES CODE SECTION IN TITLE 42
AVAILABLE INFORMATION		
Reporting		
public water systems to notify persons served by system of failures to comply, variances and exemptions, and of concentrations of unregulated contaminants [possible environmental justice issue: notice to be given within 24 hours for violations with potential for serious adverse health effects from short-term exposure; notice to head of enforcing agency, broadcast media, newspaper, posting, or door-to-door]	§ 1414(c)(1)	§ 300g-3(c)(1)
state to make available to public annual report on violations of national primary drinking water standards by public water systems; EPA to make public its own annual report	§ 1414(c)(3)	§ 300g-3(c)(3)
state's plan for intended uses of drinking water treatment revolving loan fund	§ 1452(b)	§ 300j-12(b)
state to report to EPA every 2 years regarding progress in implementing underground injection control program	§ 1428(g)	§ 300h-7(g)
Local Repositories - no applicable provisions		
LEGAL RULES AND OPPORTUNITIES		
Standard Setting		
national primary drinking water standards (MCL or treatment technique; MCLG; health-based standards); public health effects information to be comprehensive, informative and understandable	§ 1412, § 1412(b)(3)(B)	§ 300g-1, § 300g-1(b)(3)(B)
cost/benefit analysis to support primary drinking water standards to consider health risks to subpopulations at greater risk [possible environmental justice issue: increased risk to environmental justice communities can increase benefit side of cost/benefit balance]	§ 1412(b)(3)(C), § 1412(b)(4)(C)	§ 300g-1(b)(3)(C), § 300g-1(b)(4)(C)
exceptions from feasible levels allowed for MCLs if interferes with MCL compliance for other contaminants	§ 1412(b)(1), (5)	§ 300g-1 (b)(1), (5)
interim national primary drinking water regulation authorized to address urgent threat to public health [possible environmental justice issue: cost/benefit analysis delayed]	§ 1412(b)(1)(D)	§ 300g-1(b)(1)(D)
Rulemaking		
best treatment technologies/techniques or variance technologies to meet primary drinking water standards [possible environmental justice issue: cost is consideration for granting variance, but must still be protective of public health]	§ 1412(b)(15)	§ 300g-1(b)(15)
protection of underground sources of drinking water from underground injection of contaminants	§ § 1421 - 1429	§ § 300h - 300h-8
EPA guidance to states to identifaeas that supply drinking water and are susceptible to contaminants	§ 1453	§ 300j-13(a)

SAFE DRINKING WATER ACT	SDWA STATUTORY SECTION OR REGULATION	UNITED STATES CODE SECTION IN TITLE 42
LEGAL RULES AND OPPORTUNITES		
Permitting and Other Approvals		
authority to grant facility-specific variances from national primary drinking water standards [possible environmental justice issue: based on intake water quality; must still be protective of public health]	§ 1415(a)(1)	§ 300g-4(a)(1)
variances from national primary drinking water standards for "small systems" [possible environmental justice issue: EPA needs to approve each state-proposed variance for 3,300-10,000 user size systems; must still be protective of public health]	§ 1415(e)	§ 300g-4(e)
EPA to periodically review variances granted by states	§ 1415(e)(8)(A)	§ 300g-4(e)(8)(A)
exemptions from national primary drinking water standards available due to compelling factors [possible environmental justice issue: including economic facts, such a system serving a "disadvantaged community"; exemption must include compliance schedule and interim control measures]	§ 1416	§ 300g-5
EPA to conduct 3-year review of variances and exemptions granted from national primary drinking water standards	§ 1416(d)	§ 300g-5(d)
permits for underground injection wells	§ 1421(b)(1), § 1422(c)	§ 300h(b)(1), § 300h-1(c)
Siting - no applicable provisions		
Cleanup Decisions - no applicable provisions		
Information Gathering - no applicable provisions		
Enforcement and Compliance Assurance		
imminent and substantial endangerment enforcement authority	§ 1431(a)	§ 300i(a)
EPA authority to revoke state variances from, or revise compliance schedules for, attaining national primary drinking water standards (small systems only)	§ 1415(e)(10)(A)	§ 300g-4(e)(10)(A)
EPA authority to issue orders and bring civil action to compel compliance with drinking water requirements (prior notification of state or local official required)	§ 1414	§ 300g-3
EPA authority to issue orders and bring civil action for protection of underwater sources of drinking water	§ 1423(a)	§ 300h-2(a)
EPA authority to assess civil penalties for underground injection program violations	§ 1423(c)	§ 300h-2(c)
EPA may deny federal financial assistance to any project which may contaminate sole source aquifer through a recharge zone	§ 1424(e)	§ 300h-3(e)
Major Federal Actions - no applicable provisions		

SAFE DRINKING WATER ACT	SDWA STATUTORY SECTION OR REGULATION	UNITED STATES CODE SECTION IN TITLE 42
LEGAL TOOLS		
Petitions		
petition to have EPA object to/revoke state variance from attaining national primary drinking water standard [possible environmental justice issue: small systems only; any person served by system may petition] (40 C.F.R. § 142.310)	§ 1415(e)(10)(B)	§ 300g-4(e)(10)(B)
Citizen Suits		
to enforce violations of the statute	§ 1449(a)	§ 300j-8(a)
AVAILABLE RESOURCES		
Funding of Public Participation - no applicable provisions		
Ombudspersons - no applicable provisions		
Grants Available		
EPA agreements with states to capitalize drinking water treatment revolving loan funds	§ 1452	§ 300j-12
state authority to provide additional subsidies for loans to "disadvantaged community" [possible environmental justice issue: can include forgiveness of principal]	§ 1452(d)	§ 300j-12(d)
1.5% of annual appropriation for revolving loan fund capitalization to be set aside for Indian tribes and Alaska Native villages	§ 1452(i)	§ 300j-12(i)
grants to Arizona, California, New Mexico, and Texas for assistance to low-income communities known as "colonias" to facilitate compliance with national primary drinking water standards	§ 1456	§ 300j-16
Program Funding		
grants to states and tribes to implement public water system supervision programs	§ 1443(a)	§ 300j-2(a)
grants to states and tribes to implement underground water supply protection programs	§ 1443(b)	§ 300j-2(b)

TOXIC SUBSTANCES CONTROL ACT

The Toxic Substances Control Act (TSCA) provides a framework for addressing risks to health and the environment from chemical substances. Under TSCA, EPA has authority to screen new chemicals, test existing chemicals, and place restrictions on the use of chemical substances that pose "unreasonable" health or environmental risks.

While EPA does not formally issue permits for new chemicals under TSCA, no one may manufacture a new chemical or use an existing chemical for a significant new use without EPA review and approval. Manufacturers must request permission by providing EPA with a premanufacture notice (PMN) or significant new use notice (SNUN). In giving its approval, EPA can place conditions on activities involving new chemicals or significant new uses of existing chemicals to protect public health.

TSCA requires all manufacturers and processors of certain existing chemical substances to undertake testing of those chemicals and report the test data to EPA. EPA can impose a variety of limitations on the use of existing chemicals that it finds pose a risk to health or the environment. It can prohibit or limit the chemical's manufacture, processing, or distribution; it can require warnings, instructions, or public notice regarding the risks of use; it can restrict commercial use of the chemical; and it can regulate how the chemical is disposed. For example, using this authority, EPA has banned the manufacture, processing, and distribution of PCBs.

TSCA also requires EPA to reduce public exposure to lead. EPA has issued regulations that address lead-based paint hazards, lead-contaminated dust, and lead-contaminated soil. EPA has also developed public education materials to increase public awareness about the risks and practicalities of lead hazards.

The majority of TSCA authorities are administered by EPA and cannot be delegated to the states. States can, however, receive authorization to operate two lead programs: training and certification of those involved in lead-based paint activities, and preparation of lead hazard information.

TOXIC SUBSTANCES CONTROL ACT

TOXIC SUBSTANCES CONTROL ACT	TSCA STATUTORY SECTION OR REGULATION	UNITED STATES CODE SECTION IN TITLE 15
NOTICE AND PARTICIPATION		
Notice and Comment		
notice and comment, and opportunity for informal hearing, before EPA regulates chemicals that pose unreasonable risk	§ 6(c)(2)	§ 2605(c)(2)
opportunity for written and oral presentations, and public "focus meeting," before EPA issues testing rules for chemicals that may pose unreasonable risk	§ 4(b)(5)	§ 2603(b)(5)
consent agreement negotiations on testing requirements open to public, and all documents in EPA's public file	§ 4(b), 40 C.F.R. § 790	§ 2603(b), not applicable
Public Hearings/Meetings - no applicable provision		
Citizen Advisory Groups - no applicable provision		

TOXIC SUBSTANCES CONTROL ACT	SDWA STATUTORY SECTION OR REGULATION	UNITED STATES CODE SECTION IN TITLE 42
AVAILABLE INFORMATION		
Clearinghouses/Databases		
National Clearinghouse on Childhood Lead Poisoning (http://www.epa.gov/opptintro/lead/leadpbed.htm; http://www.epa.gov/lead)	§ 405(e)	§ 2685(e)
Public Education		
EPA to sponsor education to increase awareness about lead exposure	§ 405(d)	§ 2685(d)
information about renovation and remodeling practices/reduction of lead exposure	§ 402(c)	§ 2682(c)
lead hazard information booklet, to be revised periodically (http://www.epa.gov/lead/403FS01.pdf; www.epa.gov/lead/leadpbed.htm)	§ 406	§ 2686
Facility Monitoring Data/Recordkeeping		
manufacturer/processor of chemical must keep records of significant adverse reactions allegedly caused by substance or mixture [possible environmental justice issue: EPA has authority to request records for inspection]	§ 8(c)	§ 2607(c)
Agency Inspections - no applicable provision		
Reporting		
facility reporting about chemicals it manufactures or processes (PAIR form information available by phone at TSCA docket, 202-260-7099)	§ 8(a)	§ 2607(a)
submit to EPA any health and safety studies that manufacturer/processor conducted, knows about, or can find	§ 8(d)	§ 2607(d)
inform EPA immediately of information that supports conclusion that chemical presents substantial risk of injury	§ 8(e)	§ 2607(e)
Local Repositories - no applicable provision		
LEGAL RULES AND OPPORTUNITIES		
Standard Setting		
prohibition on manufacture, processing or distribution of PCBs, except in totally enclosed manner, with exceptions	§ 6(e)	§ 2605(e)
petition procedure to obtain exemption from totally enclosed use of PCBs rule	§ 6(e)(3)	§ 2605(e)(3)

TOXIC SUBSTANCES CONTROL ACT	TSCA STATUTORY SECTION OR REGULATION	UNITED STATES CODE SECTION IN TITLE 15
LEGAL RULES AND OPPORTUNITES		
Rulemaking		
authorization to regulate manufacture, distribution or use of chemicals that present unreasonable risk of injury	§ 6	§ 2605
methods for disposal of PCBs	§ 6(e), 40 C.F.R. § 761.65, § 761.50, § 761.60, § 761.75(c), § 761.70(d)(3)	§ 2605(e)
identify hazards of lead-based paint hazards, lead-contaminated dust, and soil (national guidance for lead hazard reduction activities)	§ 403	§ 2683
specify what constitutes "new use" of chemicals	§ 5(a)	§ 2604(a)
list of substances that may present an unreasonable risk of injury [possible environmental justice issue: manufacturer of listed chemicals must prove lack of unreasonable risk]	§ 5(b)	§ 2604(b)
committee to create prioritized list of chemicals subject to rulemaking, and review every six months (rule-making to occur within 12 months of being listed)	§ 4(e)	§ 2603(e)
EPA to require health and environmental effects testing of chemicals that may present unreasonable risk for which there are insufficient data [possible environmental justice issue: must look at cumulative or synergistic effects]	§ 4(a)	§ 2603(a)
Permitting and Other Approvals		
PMN required 90 days before manufacturing an unlisted chemical; SNUN required before manufacturing a listed chemical for a new use [possible environmental justice issue: EPA has to take action to prohibit/restrict use; silence for 90+ days constitutes approval]	§ 5	§ 2604
EPA may prohibit or place conditions on activities involving new chemicals or new uses, if insufficient data exist to evaluate health and environmental impacts [possible environmental justice issue: review can be site-specific]	§ 5(e)	§ 2604(e)
Siting - no applicable provision		
Cleanup Decisions		
EPA authority to act if presence of asbestos in school poses imminent and substantial endangerment, and local agency not taking sufficient action	§ 208	§ 2648
Information Gathering		
EPA authority to require facility to submit information about quality control procedures	§ 6(b)	§ 2605(b)

TOXIC SUBSTANCES CONTROL ACT	SDWA STATUTORY SECTION OR REGULATION	UNITED STATES CODE SECTION IN TITLE 42
LEGAL RULES AND OPPORTUNITES		
Information Gathering		
EPA authority to conduct inspections (includes subpoena authority)	§ 11	§ 2610
Enforcement and Compliance Assurance		
EPA authority to order facility to change its quality-control procedures, and to notify public of risks associated with its management of chemical	§ 6(b)	§ 2605(b)
EPA authority to seize chemical substances that present imminent and unreasonable risk of serious or widespread injury	§ 7	§ 2606
EPA must act within 180 days of receiving information that chemical presents significant risk of serious or widespread harm from cancer, gene mutations, or birth defects	§ 4(f)	§ 2603(f)
administrative civil penalties for violations	§ 16(a)	§ 2615(a)
Major Federal Actions - no applicable provision		
LEGAL TOOLS		
Petitions		
petition to issue amend or repeal a rule; public hearing after receipt of petition (a 1994 petition led to EPA subpoenas regarding chemical discharges along US/Mexico border) http://www.planeta.com/ecotravel/border/0095new.html) (petitions are available at TSCA docket, 202-260-0660)	§ 21	§ 2620
Citizen Suits		
to enforce provisions of the statute	§ 20	§ 2619
AVAILABLE RESOURCES		
Funding of Public Participation		
compensation for costs of participating in EPA's attempts to regulate chemicals that pose unreasonable risk (NOTE: due to court reversals, EPA is "deemphasizing" this regulatory authority)	§ 6(c)(4)	§ 2605(c)(4)
Ombudspersons		
asbestos ombudsman office created within EPA	§ 212	§ 2652

TOXIC SUBSTANCES CONTROL ACT	SDWA STATUTORY SECTION OR REGULATION	UNITED STATES CODE SECTION IN TITLE 42
AVAILABLE RESOURCES		
Grants Available		
HHS grants to non-profit organizations to develop inexpensive and efficient testing methods	§ 27	§ 2626
Program Funding		
technical assistance to states to carry out radon-related activities [possible environmental justice issue: including demonstration projects to reduce high radon levels in homes]	§ 305	§ 2665
grants to states to implement radon programs [possible environmental justice issue: states to give preference to low-income persons]	§ 306	§ 2666

APPENDIX B:
Overview of Additional U.S. EPA Community Grant Programs

For more information on EPA Grant Opportunities, please visit the following website: www.epa.gov/epahome/grants.htm.

The grant programs outlined in this chart provide funds either directly, or indirectly, to community groups. The grant programs cover a range of issues and are not necessarily focused specifically on environmental justice concerns.

GRANT PROGRAM: BROWNFIELDS ASSESSMENT DEMONSTRATION PILOTS

Purpose:
To empower states, communities, tribes, and other stakeholders in economic redevelopment to work together in a timely manner to prevent, assess, and safely cleanup brownfields to promote their sustainable reuse. EPA's Brownfields Assessment Demonstration Pilots are directed toward environmental activities preliminary to cleanup, such as site assessments, site identification, site characterization, and site response or cleanup planning. These pilot programs can provide communities with useful information and strategies so that they can play a role in new, cooperative approaches to site assessment, environmental cleanup, and redevelopment.

Eligible Applicants:
States and U.S. territories, political subdivisions (including cities, towns, and counties) and federally recognized Indian tribes.

Award Amounts for FY2002:
Up to $200,000 for 2 years

Approximate Application Period in FY2003:
Varies

Contact Information:
Becky Brooks, Office of Solid Waste and Emergency Response, 202-260-8474

GRANT PROGRAM: BROWNFIELDS JOB TRAINING AND DEVELOPMENT DEMONSTRATION PILOTS

Purpose:
To bring together community groups, job training organizations, educators, labor groups, investors, lenders, developers, and other affected parties to address the issue of providing environmental employment and training for residents in communities impacted by brownfields. These grants facilitate cleanup of brownfields sites contaminated with hazardous substances and prepare trainees for future employment in the environmental field. The pilot projects must prepare trainees in activities that can be usefully applied to a cleanup employing an alternative or innovative technology.

Eligible Applicants:
Colleges, universities, nonprofits, training centers, community-based job training centers, states, cities, towns, counties, U.S. territories, and federally recognized Indian tribes. Generally, entities with experience in providing job training and placement programs are invited to apply.

Award Amounts for FY2002:
Up to $200,000 over 2 years

Approximate Application Period in FY2003:
Varies

Contact Information:
Myra Blakely, Office of Solid Waste and Emergency Response, 202-260-4527

GRANT PROGRAM: NATIONAL ESTUARY PROGRAM

Purpose:
To promote the development of comprehensive conservation and management plans for designated estuaries. The National Estuary Program (NEP) is designed to encourage local communities to take responsibility for managing their own estuaries. Each NEP is made up of representatives from federal, state, and local government agencies responsible for managing the estuary's resources, as well as members of the community - citizens, business leaders, educators, and researchers. These stakeholders work together to identify problems in the estuary, develop specific actions to address those problems, and create and implement a formal management plan to restore and protect the estuary.

Eligible Applicants:
Grants are issued only for those estuaries designated as "nationally significant" by EPA. EPA is authorized to make grants to state, interstate, and regional water pollution control agencies and entities, state coastal zone management agencies, interstate agencies, other public and nonprofit private agencies, institutions, organizations, and individuals (Section 320(g)(l)). Profit-making organizations are not eligible for grants.

Award Amounts for FY2002:
$10,000 to $795,000

Approximate Application Period in FY2003:
November to May

Contact Information:
Darrell Brown, Office of Wetlands, Oceans, and Watersheds Protection, 202-260-6502

GRANT PROGRAM: SOLID WASTE MANAGEMENT ASSISTANCE

Purpose:
To promote the use of integrated solid waste management systems to solve municipal solid waste generations and management problems at the local, regional, and national levels.

Eligible Applicants:
These funds can be awarded to the following types of nonprofit entities: public authorities (federal, state, interstate, intrastate, and local), public agencies and institutions; private organizations and agencies, institutions and individuals; and Indian tribes. Profit-making organizations are not eligible.

Award Amounts for FY2002:
$5,000 to $250,000

Approximate Application Period in FY2003:
Varies

Contact Information:
Linda Kutsher, Office of Solid Waste, 703-308-6114

This information has been adapted from EPA's website and the following source: U.S. EPA Office of Administration and Resource Management. Asian American & Pacific Islander Outreach Strategy, EPA-202-k-01-003. September 2001. Pp. 40-41.

APPENDIX C:
Selected Other Environmental Justice Resources

USEFUL RESOURCES:

Been, Vicki. What's Fairness Got to Do With It? Environmental Justice and Siting of Undesirable Land Use. 78 Cornell L. Rev. September 1993.

Bullard, Robert. People of Color Environmental Groups. Environmental Justice Resource Center. Clark Atlanta University. Atlanta, Georgia. 2000. [http://www.ejrc.cau.edu/poc2000.htm]

Bullard, Robert. Unequal Justice. Sierra Club Books. San Francisco, California. 1994. [http://www.ejrc.cau.edu/books4sale.html]

Cole, Luke, and Sheila Foster. From the Ground Up: Environmental Racism and the Rise of the Environmental Justice Movement. New York University Press. 2001.

Council on Environmental Quality. Environmental Justice: Guidance under the National Environmental Policy Act. December 10, 1997. [http://ceq.eh.doe.gov/nepa/regs/ej/justice.pdf]

Environmental Law Institute. Community Environmental Health Assessment Workbook: A Guide to Evaluating Your Community's Health and Finding Ways to Improve It. 2000. [http://www.eli.org/store/rr00communityhealth.html]

Environmental Law Institute. Opportunities for Advancing Environmental Justice: An Analysis of U.S. EPA Statutory Authorities. 2001. [http://www.eli.org, under "Publications," "Research Reports & Briefs, 2001"]

Executive Order 12898, Federal Action to Address Environmental Justice. February 1994. [http://www.epa.gov/swerosps/ej/ejndx.htm#12898]

Memorandum for the Heads of All Departments and Agencies, accompanying Executive Order 12898. February 11, 1994.

Ferris, Deeohn. Communities of Color and Hazardous Waste Cleanup: Expanding Public Participation in the Federal Superfund Program. 21 Fordham Urb. L.J. 671. Spring 1994.

Gibbs, Lois. Getting Organized and Getting Out: A Citizen's Guide to Contamination, Compensation and Relocation. Citizens Clearinghouse for Hazardous Waste. 1994. [Available from: Citizens Clearinghouse for Hazardous Waste, Inc., P.O. Box 6806, Falls Church, VA 22040. Make check payable to CCHW for $10.00 plus $2.09 postage.]

Harker, Donald, and Elizabeth Natter. Where We Live: A Citizen's Guide to Conducting a Community Environmental Inventory. Island Press. 1995. [http://www.islandpress.org/books/Detail.tpl?cart=30885039936340&SKU=1-55963-377-8]

Hill, Barry, and Nicholas Targ. The Link Between Protecting Natural Resources and the Issue of Environmental Justice. 20 B.C. Envtl. Aff. L. Rev. 1. 2000. [http://www.bc.edu/bc_org/avp/law/lwsch/journals/bcealr/28_1/01_FMS.htm]

Kuehn, Robert, ed. Citizen's Guide to Environmental Activism in Louisiana. Tulane Environmental Law Clinic. 1991.

Lavelle, Marianne, and Marcia Coyle. Unequal Protection. National Law Journal. September 21, 1992.

Lazarus, Richard, and Stephanie Tai. Integrating Environmental Justice into EPA Permitting Authority. 26 Ecology L.Q. 617. 1999.

Lester, Stephen, Brian Lipsett and Karen Stults. Using Your Right to Know: A Guide to the Community Right-to-Know Act. Fact Pact P091. Center for Health, Environment & Justice. 1989. [http://www.chej.org]

Lester, Stephen and Penny Newman. Technical Assistance Grants, A User's Guide: The Art of Getting, Using and Controlling Your Expert. Citizens Clearinghouse for Hazardous Wastes. September 1989.

Miller, Janet M. and Marla Painter. Taking Charge: A Community Action Guide to the Environmental Impact Statement Process.

The National Association of County and City Health Officials. Community Revitalization and Public Health: Issues, Roles and Relationships for Local Public Health Agencies. June 2000. [http://www.naccho.org/prod89.cfm]

National Environmental Justice Advisory Council Waste and Facility Siting Subcommittee. Environmental Justice, Urban Revitalization, and Brownfields: The Search for Authentic Signs of Hope. 1997. [http://www.epa.gov/swerosps/ej/html-doc/nejachtm.htm]

O'Neill, Catherine A. Variable Justice: Environmental Standards, Contaminated Fish, and Acceptable Risk to Native Peoples. 19 Stan. Envtl. L.J. 3. 2000.

Peterson, Jane A., ed. Eco-Justice: Linking Human Rights and the Environment. World Watch Paper 127. World Watch Institute. December 1995. [http://secure.worldwatch.org/cgibin/wwinst/WWP0127?KJd3SG4G;;89]

Pring, George W. and Penelope Canan. SLAPPs: Getting Sued for Speaking Out. Temple University Press: Philadelphia. 1996. [http://www.temple.edu/tempress/titles/1228_reg.html]

Pulido, Laura. Environmentalism and Economic Justice: Two Chicano Struggles in the Southwest. The University of Arizona Press: Tucson. 1996. [http://www.uapress.arizona.edu/books/BID964.htm]

Southwest Network for Environmental and Economic Justice and the Environmental Law Institute. Working with Lawyers: A Guide for Community Residence and Environmental Justice Activists. 1996.

Southwest Network for Environmental and Economic Justice and the Environmental Law Institute. SLAPPs, Strategic Lawsuits Against Public Participation: A Guide for Community Residents and Environmental Justice Activists. 1997.

United Church of Christ Commission for Racial Justice. Toxic Wastes and Race in the United States: A National Report on the Racial and Socioeconomic Characteristics of Communities Surrounding Hazardous Waste Sites. New York: United Church of Christ. 1987.

U.S. Department of Energy. Incorporating Environmental Justice Principles into the CERCLA Process, DOE/EH-413 9812. May 1998.

U.S. EPA. Environmental Justice Action Agenda, EPA540R95/023. May 1995. [http://www.epa.gov/swerosps/ej/ejndx.htm#aa]

U.S. EPA. Environmental Justice Annual Report. 1996. [http://es.epa.gov/oeca/main/ej/ej96annrep.html]

U.S. EPA Office of Enforcement and Compliance Assurance. EPA's Section 309 Review: The Clean Air Act and NEPA, Quick Reference Brochure. April 1999. [http://es.epa.gov/oeca/ofa/brochure.html]

U.S. EPA Office of Environmental Justice. 1998 Biennial Report: Working Towards Collaborative Problem Solving. July 1999. [http://es.epa.gov/oeca/main/ej/98biennial.pdf]

U.S. EPA Office of Federal Activities. Final Guidance for Incorporating Environmental Justice Concerns in EPA's NEPA Compliance Analyses. April 1998. [http://es.epa.gov/oeca/ofa/ejepa.html]

U.S. EPA Office of Federal Activities. EPA Guidance for Consideration of Environmental Justice in Clean Air Act Section 309 Reviews. July 1999. [http://es.epa.gov/oeca/ofa/ej_nepa.html]

U.S. EPA Office of Solid Waste and Emergency Response. Brownfields Title VI Case Studies, EPA 500-R-99-003. June 1999. [http://www.epa.gov/swerosps/ej/ejndx.htm#titlevi]

U.S. EPA Office of Solid Waste and Emergency Response. 1997-1998 Waste Programs Environmental Justice Accomplishments Report, EPA-500-R-00-003. May 2000. [http://www.epa.gov/swerosps/ej/html-doc/ejacom97.htm]

U.S. EPA Subcommittee on Enforcement of the National Environmental Justice Advisory Council. Memorandum on Integrating Environmental Justice into EPA Permitting Authority. July 18, 1996. [http://es.epa.gov/oeca/ofa/cumula.html]

USEFUL WEBSITES:

An Annotated Bibliography on Environmental Justice. Prepared by Ruth Neal and April Allen for the Environmental Justice Resource Center at the Clark Atlanta University. http://www.ejrc.cau.edu/annbib.html

Bibliography from North Carolina State University. http://www.ces.ncsu.edu/depts/agecon/PIE/preference.html

Environmental Defense Scorecard. Enter your zipcode and find out what pollutants are being released into your community. http://www.scorecard.org/

Environmental Justice Database. Contains numerous articles from the late 1980s and early 1990s. http://www.msue.msu.edu/msue/imp/modej/masterej.html

National Wildlife Federation: Take Action Site. Learn how to: take personal action, organize your community, use the news, and locate federal and state lawmakers. http://www.nwf.org/action/howtos/index.html

Right to Know Network. Contains government resources. Has a search function that allows users to look up toxic substances in their areas.
http://rtk.net/

Working Group on Environmental Justice bibliography.
http://ecojustice.net/bib/

APPENDIX D:
EPA Headquarters and Regional Offices

This contact information is current at the time of publication. For the most up-to-date information please see the following website: http://www.epa.gov/epahome/postal.htm.

EPA HEADQUARTERS:

United States Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, DC 20004
http://www.epa.gov/
General Info. 202-260-2090

EPA REGIONAL OFFICES:

Region 1: Serving Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont

United States Environmental Protection Agency
Region 1
1 Congress Street, Suite 1100
Boston MA 02114-2023
http://www.epa.gov/region01/

General Info. 888-372-7341
Outside of the Region. 617-918-1111
Environmental Justice Program 617-918-1061

EPA New England Programs & Special Programs:
http://www.epa.gov/region01/programs/index.html

Please see website listed above for information on Air Program, Pesticides, Toxics & Radiation Program, Waste Program, Water Program, and other programs.

Region 2: Serving New Jersey, New York, Puerto Rico and the U.S. Virgin Islands

United States Environmental Protection Agency
Region 2
290 Broadway
New York, New York 10007-1866
http://www.epa.gov/region02/

General Info. 212-637-3000
Environmental Justice Program 212-637-5027

Please see website listed above for information on Air Program, Pesticides Program, Superfund Program, Waste Program, Water Program and others.

Region 3: Serving Delaware, Maryland, Pennsylvania, Virginia, West Virginia, and the District of Columbia

United States Environmental Protection Agency
Region 3
1650 Arch Street
Philadelphia, PA 19103-2029
http://www.epa.gov/region03/

General Info. 800-438-2474
Outside of the Region 215-814-5000
Air Protection Division. 215-814-2100
Enforcement, Compliance and
Environmental Justice Office. 215-814-2106
Hazardous Site Cleanup Division. 215-814-3000
Waste and Chemicals Management Division. . . . 215-814-3110
Water Protection Division. 215-814-2300

Region 4: Serving Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee

United States Environmental Protection Agency
Region 4
Atlanta Federal Center
61 Forsyth Street, SW
Atlanta, GA 30303-3104
http://www.epa.gov/region04/

General Info. 800-241-1754
Outside of the Region 404-562-9900
Air, Pesticides, and Toxic Management Division 404-562-9077
Environmental Accountability Division. 404-562-9655
Waste Management Division. 404-562-8651
Water Management Division. 404-562-9345

Please see website listed above for information on Air Program, Pesticides Program, Superfund Program, Waste Program, Water Program and others.

APPENDIX E:
State Environmental Agencies

This contact information is current at the time of publication. For the most up-to-date information please see the website listed for each individual state.

Alabama

Environmental Management Department
1400 Coliseum Blvd.
P.O. Box 301463
Montgomery, AL 36130-1463
http://www.adem.state.al.us

General Info. 334-271-7700
Air Division 334-271-7868
Water Division. 334-271-7823

Alaska

Department of Environmental Conservation
410 Willoughby Ave, Ste. 303
Juneau, AK 99801-1795
http://www.state.ak.us/dec/home.htm

General Info. 907-465-5010
Air and Water Quality Division 907-269-7634
Environmental Health Division 907-269-7654
Spill Prevention & Response Division 907-465-5250

Arizona

Environmental Quality Department
3033 N. Central Ave.
Phoenix, AZ 85012
http://www.adeq.state.az.us

General Info. 602-207-4829
Air Quality Division 602-207-2308
Waste Programs Division 602-207-4208
Water Quality Division. 602-207-2303

Arkansas

Environmental Quality Department
8001 National Dr.
P.O. Box 8913
Little Rock, AR 72219-8913
http://www.adeq.state.ar.us

General Info. 501-682-0744
Air Division. 501-682-0730
Hazardous Waste Division. 501-682-0831
Water Division. 501-682-0654

California

Environmental Protection Agency
1001 I St., 25th Floor
Sacramento, CA 95814
http://www.chfa.ca.gov
General Info. 916-445-3846

Department of Pesticide Regulation
http://www.cdpr.ca.gov/
General Info. 916-324-1452

Toxic Substances Control Department
1001 I St., P.O. Box 806
Sacramento, CA 95812
http://www.dtsc.ca.gov/
General Info. 916-322-0476

Environmental Health Hazard Assessment Office
1001 I St., 19th Floor
Sacramento, CA 95814
http://www.oehha.ca.gov/home.htm
General Info. 916-324-7572

Air Resources Board
P.O. Box 2815
Sacramento, CA 95812
http://www.arb.ca.gov
General Info. 916-322-2990

Water Resources Control Board
1001 I St., P.O. Box 100
Sacramento, CA 95812
http://www.swrcb.ca.gov/
General Info. 916-341-5251

Colorado

Public Health and Environment Department
4300 Cherry Cheek Dr.
Denver, CO 80246-1530
http://www.cdphe.state.co.us/cdphemhom.asp

General Info. 303-692-2000
Air Pollution Control Division. 303-692-3115
Hazardous Materials
& Waste Management Division 303-692-3397
Water Quality Control Division. 303-692-3509
Environmental Leadership
& Pollution Prevention. 303-692-2023

Connecticut

Environmental Protection Department
79 Elm St.
Hartford, CT 06106
http://dep.state.ct.us/

General Info. 860-424-3000
Air Management Bureau 860-424-3026
Waste Management Bureau 860-424-3013
Water Management Bureau 860-424-3704

Delaware

Natural Resources and Environmental Control Dept.
89 Kings Hwy
Dover, DE 19901
http://dnrec.state.de.us

General Info. 302-739-4506
Air & Waste Management Division 302-739-4764
Water Resources Division. 302-739-4860

District of Columbia

Environmental Health Administration
51 N. St., NE, 6th Fl.
Washington, DC 20002
http://dchealth.dc.gov/about/ao.shtm
General Info. 202-535-2500

Florida

Department of Environmental Protection
3900 Commonwealth Blvd.
Tallahassee, FL 32399-3000
http://www.dep.state.fl.us

Air Resources Management Division
http://www.dep.state.fl.us/air
General Info. 850-488-0114

Waste Management Division
Twin Towers Office Bldg.
2600 Blair Stone Road
Takkahassee, FL 32399-2400
http://www.dep.state.fl.us/dwm
General Info. 850-487-3299

Water Resources Management Division
http://dep.state.fl.us/water
General Info. 850-487-1855

Georgia

Natural Resources Department-
Environmetal Protection Division
205 Butler St., SE
Ste. 1252
Atlanta, GA 30334
http://www.ganet.org/dnr/environ/

General Info. 404-656-4713
Air Protection Branch. 404-363-7000
Hazardous Waste Branch. 404-656-7802
Water Protection Branch. 404-675-6232

Hawaii

Health Department-
Environmental Management Division
919 Ala Moana Blvd
Honolulu, HI 96814
http://www.state.hi.us/health/about/enviro.html

General Info. 808-586-4304
Clean Air Branch 808-586-4200
Clean Water Branch. 808-586-4309
Safe Drinking Water Branch 808-586-4258
Solid & Hazardous Waste Branch 808-586-4225

Idaho

Environmental Quality Department
1410 N. Hilton
Boise, ID 83706-1255
http://www2.state.id.us/deq

General Info. 208-373-0502
Air Quality Division. 208-373-0440
Waste Division 208-373-0148
Water Quality Division. 208-373-0413

Illinois

Environmental Protection Agency
P.O. Box 19276
Springfield, IL 62794-9276
http://www.epa.state.il.us/

General Info. 217-782-2829
Air Bureau 217-785-4140
Water Bureau 217-782-1654
Pollution Prevention and Lead 217-557-7826

Indiana

Environmental Management Department
Indiana Government Ctr. N
Senate Ave, P.O. Box 6015
Indianapolis, IN 46206-6015
http://www.ai.org/idem

General Info. 317-232-8603
Air Quality Program. 317-232-5586
Water Quality Program 317-232-8476

Iowa

Natural Resources Department
Wallace Bldg.
Des Moines, IA 50319-0034
http://www.state.ia.us/governments/dnr/organiza/epd

General Info. 515-281-5145
Air Quality Bureau 515-281-8852
Water Quality Bureau 515-281-8869
Waste Management Bureau 515-281-8927

Kansas

Health and Environment Department-
Environment Division
Forbes Field, Bldg 740
Topeka, KS 66620
http://www.kdhe.state.ks.us/environment/index.html

General Info. 785-296-1500
Air & Radiation 785-296-1593
Waste Management 785-296-1600
Water 785-296-5500

Kentucky

Department of Environmental Protection
Fort Boone Plaza, 14 Reily Rd.
Frankfort, KY 40601
http://www.nr.state.ky.us/nrepc/dep/dep2.htm

General Info. 502-564-2150
Air Quality Division 502-573-6120
Waste Management Division 502-564-6716
Water Division 502-564-3410

Louisiana

Environmental Quality Department
P.O Box 82231
Baton Rouge, LA 70884-2231
http://www.deq.state.la.us
General Info. 225-763-5423

Maine

Environmental Protection Department
17 State House Station
Augusta, ME 04333-0017
http://state.me.us/dep/

General Info. 207-287-7688
Air Quality Bureau. 207-287-2437
Land and Water Quality Bureau 207-287-3901
Remediation
& Waste Management Bureau. 207-287-2651

Maryland

Environment Department
2500 Broening Hwy
Baltimore, MD 21224
http://www.mde.state.md.us

General Info. 410-631-3000
Air & Radiation Management 410-631-3255
Waste Management 410-631-3304
Water Management 410-631-3567

Massachusetts

Environmental Affairs Executive Office
100 Cambridge St, Rm 2000
Boston, MA 02108
http://www.state.ma.us/envir

General Info. 617-626-1000
Environmental Management 617-626-1300
Environmental Protection 617-292-5856

Michigan

Environmental Quality Department
P.O. Box 30473
Lansing, MI 48909-7973
http://www.deq.state.mi.us

General Info. 800-662-9278
Air Quality Division 517-373-7023
Land & Water Management Division 517-373-1170
Waste Management Division 517-373-2730

Minnesota

Environmental Assistance Office
520 Lafayette Rd, 2nd Fl
St. Paul, MN 55155-4100
http://www.moea.state.mn.us

General Info. 651-296-3417
Pollution Control Agency 651-296-6300
Water and Soil Resources Board 651-296-3767

Mississippi

Environmental Quality Department
P.O. Box 20305
Jackson, MS 39289-0385
http://www.deq.state.ms.us

General Info. 601-961-5650
Air Quality Branch. 601-961-5587
Hazardous Waste Branch 601-961-5221
Water Resources Division 601-961-5212

Missouri

Natural Resources Department
P.O. Box 176
Jefferson City, MO 65102
http://www.dnr.state.mo.us
General Info. 573-751-3443

Montana

Environmental Quality Department
1520 E. Sixth St.
P.O. Box 200901
Helena, MT 59620-0901
http://www.deq.state.mt.us/
General Info. 406-444-2544

Nebraska

Environmental Quality Department
P.O Box 98922
Lincoln, NE 68509-8922
http://www.deq.state.ne.us/

General Info. 402-471-2186
Air Program 402-471-4210
Waste Program 402-471-4210
Water Program 402-471-3098

Nevada

Conservation and Natural Resources Department
123 W. Nye Ln, Rm 230
Carson City, NV 89502
http://www.state.nv.us/cnr/
General Info. 775-688-1113

New Hampshire

Environmental Services Department
Six Hazen Dr.
Concord, NH 03301, NH
http://www.des.state.nh.us

General Info. 603-271-3503
Air Resources Division 603-271-1370
Waste Management Division. 603-271-2905
Water Division 603-271-3504

New Jersey

Environmental Protection Department
401 E. State St.
P.O. Box 402
Trenton, NJ 08625-0402
http://www.state.nj.us/dep
General Info. 609-777-3373

Environmental Regulation
P.O. Box 423
Trenton, NJ 08625-0423

Pollution Prevention. 609-292-3600
Solid & Hazardous Waste 609-984-6880
Air Quality Regulation 609-984-1484

New Mexico

Environment Department
1190 St. Francis Dr.
P.O. Box 26110
Santa Fe, NM 87504
http://www.nmenv.state.nm.us/

General Info. 505-827-2855
Air Quality Bureau 505-827-1494
Water & Waste Management 505-827-1758

New York

Environmental Conservation Department
50 Wolf Rd.
Albany, NY 12233
http://www.dec.state.ny.us

General Info. 518-457-5400
Air & Waste Management Office 518-457-1415
Water Quality &
Environmental Remediation 518-485-8437

North Carolina

Environment and Natural Resources Department-
Environmental Protection
1601 Mail Service Ctr
Raleigh, NC 27699-1601
http://www.enr.state.nc.us

General Info. 919-733-4984
Air Quality Division. 919-715-6232
Pollution Prevention Division 919-715-6500
Waste Management Division 919-733-4996
Water Quality Division 919-733-7015

North Dakota

Health Department-
Environmental Health Section
1200 Missouri Ave.
P.O. Box 5520
Bismark, ND 58506-5520
http://www.health.state.nd.us/ndhd/environ/

General Info. 701-328-5150
Air Quality Division 701-328-5188
Waste Management Division. 701-328-5166
Water Quality Division 701-328-5210

Ohio

Environmental Protection Agency
P.O. Box 1049
Columbus, OH 43216-0419
http://www.epa.state.oh.us

General Info. 614-644-2110
Air Pollution Control Division. 614-644-2270
Drinking and Ground Water Division 614-644-2752
Hazardous Waste Management 614-644-2917
Pollution Prevention 614-644-3469

Oklahoma

Environmental Quality Department
707 N. Robinson
P.O. Box 1677
Oklahoma City, OK 73101-1677
http://www.deq.state.ok.us/

General Info. 405-702-1000
Air Quality Division. 405-702-4100
Waste Management Division 405-702-5100
Water Quality Division 405-702-8100

Oregon

Environmental Quality Department
811 SW Sixth Ave.
Portland, OR 97204-1390
http://www.deq.state.or.us

General Info. 503-229-5696
Air Quality Division 503-229-5397
Waste Prevention &
Management Division 503-229-5072
Water Quality Division 503-229-5324

Pennsylvania

Environmental Protection Department
P.O. Box 2063
Harrisburg, PA 17105-2063
http://www.dep.state.pa.us/

General Info. 717-783-2300
Air, Recycling &
Radiation Protection 717-772-2724
Pollution Prevention &
Compliance Assistance 717-783-0540
Water Management 717-787-4686

Rhode Island

Environmental Management Department-
Environmental Protection Bureau
235 Promenade St.
Ste. 450
Providence, RI 02908
http://www.state.ri.us/dem/org/envprot.htm

General Info. 401-222-6800
Air Resources 401-222-2808
Waste Management 401-222-2797
Water Resources 401-222-3961

South Carolina

Health and Environmental Control Department-
Environmental Quality Control
2600 Bull St.
Columbia, SC 29201
http://www.state.sc.us/dhec

General Info. 803-898-3432
Air Quality Control Bureau 803-898-4123
Land & Waste Management Bureau 803-896-4007
Water Bureau. 803-898-4259

South Dakota

Environmental and Natural Resources Department
Joe Foss Bldg.
523 E. Capitil Ave.
Pierre, SD 57501-3181
http://www.state.sd.us/denr/

General Info. 605-773-3151
Air Quality Program. 605-773-3151
Drinking Water Program 605-773-3754
Waste Management Program 605-773-3153

Tennessee

Environment and Conservation Department-
Environmental Bureau
Life and Casualty Tower
401 Chruch St., 21st Fl.
Nashville, TN 37243-0435
http://www.state.tn.us/environment/apc/index.html

General Info. 615-532-0109
Air Pollution Control 615-532-0554
Solid/Hazardous Waste Management 615-532-0780
Water Pollution Control 615-532-0625
Water Supply 615-532-0191

Texas

Natural Resources Conservation Commission-
Environmental Policy, Analysis and Assessment
12100 Park 35 Circle
P.O. Box 13087
Austin, TX 78711-3087
http://www.tnrcc.state.tx.us/homepgs/oepaa.html
General Info. 512-239-4900

Utah

Environmental Quality Department
168 N. 1950 West
Salt Lake City, UT 84116
http://www.eq.state.ut.us
General Info. 801-536-4400

Air Quality Division
150 N. 1950 West
Salt Lake City, UT 84116
Phone. 801-536-4151

Drinking Water Division
150 N. 1950 West
Salt Lake City, UT 84116
Phone. 801-536-4188

Solid and Hazardous Waste Division
288 N. 1460 West
Salt Lake City, UT 84116
Phone. 801-536-6785

Water Quality Division
288 N. 1460 West
Salt Lake City, UT 84116
Phone. 801-538-6081

Vermont

Natural Resources Agency-
Environmental Conservation Department
State Complex, 103 S. Main St.
Waterbury, VT 05671
http://www.anr.state.vt.us

General Info. 802-241-3800
Air Pollution Control Division. 802-241-3840
Waste Management Division 802-241-3888
Water Quality Division 802-241-3770

Virginia

Natural Resources Secretariat-
Environmental Quality Department
629 E. Main St
P.O. Box 10009
Richmond, VA 23240
http://www.deq.state.va.us/

General Info. 804-698-4000
Air Program 804-698-4311
Pollution Prevention & Compliance 804-698-4374
Waste Program 804-698-4421
Water Program. 804-698-4108

Washington

Ecology Department
P.O. Box 47600
Olympia, WA 98504-7600
http://www.wa.gov/ecology

General Info. 360-407-6006
Air Program 360-407-6880
Hazardous Waste &
Toxics Reduction Program 360-407-6702
Toxics Cleanup Program 360-407-7177
Water Quality Program 360-407-6405
Water Resources Program 360-407-6602

West Virginia

Environment Bureau-
Environmental Protection Division
10 McJunkin Rd.
Nitro, WV 25143-2506
http://www.dep.state.wv.us/

General Info. 304-759-0515
Air Quality. 304-926-3647
Waste Management 304-558-5929
Water Resources 304-558-2107

Wisconsin

Natural Resources Department
101 S. Webster St.
P.O. Box 7921
Madison, WI 53704-2572
http://www.dnr.state.wi.us/

General Info. 608-266-2121
Air & Waste Division. 608-267-9521
Water Division 608-266-1099

Wyoming

Environmental Quality Department
Herschler Bldg., 4th Fl.
122 W. 25th St.
Cheyenne, WY 82002
http://deq.state.wy.us

General Info. 307-777-7937
Air Quality Division 307-777-7391
Solid & Hazardous Waste Division 307-777-7752
Water Quality Division 307-777-7781

APPENDIX F:
List of Acronyms

ATSDR - Agency for Toxic Substances and Disease Registry

ARAR - applicable and relevant or appropriate requirement

BACT - Best Available Control Technology

CAA - Clean Air Act

CABs - community advisory boards

CERCLA - Comprehensive Environmental Response, Compensation, and Liability Act

CEQ - Council on Environmental Quality

CFR - Code of Federal Regulations

CWA - Federal Water Pollution Control Act, or Clean Water Act

DMRs - discharge monitoring reports

EA - environmental assessment

EIS - environmental impact statement

EJ - environmental justice

ELI Statutory Analysis - companion report to this handbook, entitled "Opportunities for Advancing Environmental Justice: An Analysis of U.S. EPA Statutory Authorities". Available electronically at no cost from the Environmental Law Institute web site <www.eli.org>. Click on "Publications", then "2001 Research Reports" to obtain a copy.

EPA - Environmental Protection Agency

EPCRA - Emergency Planning and Community Right-to-Know Act

ESA - Endangered Species Act

FFDCA - Federal Food, Drug, and Cosmetic Act

FIFRA - Federal Insecticide, Fungicide, and Rodenticide Act

FIP - federal implementation plan

FOIA - Freedom of Information Act

FONSI - finding of no significant impact

FWS - United States Fish and Wildlife Service

HAPs - hazardous air pollutants

HHS - Department of Health and Human Services

LAER - Lowest Achievable Emission Rate

LEPC - Local Emergency Planning Commission

MCL - maximum contaminant levels

MCLG - maximum contaminant level goals

MSDS - material safety data sheet

NAAQS - national ambient air quality standards

NEP - National Estuary Program

NEPA - National Environmental Policy Act

NESHAPs - national emission standards for hazardous air pollutants

NPDES - National Pollutant Discharge Elimination System

NPL - National Priorities List

NSPS - new source performance standards

NSR - new source review

O&M - operation and maintenance

PAIR - Preliminary Assessment Information Report

PA/SI - preliminary assessment and site investigation

PCBs - polychlorinated biphenyls

PMN - pre-manufacture notice

PSD - prevention of significant deterioration

QNCRs - Quarterly Non-Compliance Reports

RACT - Reasonably Available Control Technology

RCRA - Resource Conservation and Recovery Act

RD/RA - remedial design and remedial action

RI/FS - remedial investigation and feasibility study

ROD - record of decision

SERC - State Emergency Response Commission

SDWA - Safe Drinking Water Act

SICs - Standard Industrial Codes

SIP - state implementation plan

SNUN - significant new use notice

TAGs - technical assistance grants

TMDL - total maximum daily load

TOSC - Technical Outreach for Communities

TRI - Toxics Release Inventory

TSCA - Toxic Substances Control Act

UIC - underground injection control

USC - United States Code

GLOSSARY

Ambient Air Quality - The quality of the air all around us.

Antidegradation - A policy banning any discharges that would "degrade," or make worse, the existing water quality of a water body, or degrade its current ability to serve specific uses, such as drinking water, fishing, or recreation.

Bioaccumulation - The retention or storage of chemical substances in the body, usually in fatty tissues, for long periods of time, with the total amount of chemicals in the body increasing the longer a person is exposed to them.

Brownfields - Contaminated areas, usually within a city or urban area, that are being cleaned up for future industrial use. Areas cleaned up under a brownfields program often are subject to different requirements (often state requirements) than sites cleaned up under the Superfund program.

Capping - One method of cleanup that EPA can use at a site. Capping can be as simple as covering a site with soil, a layer of clay, or another material that serves to contain the hazardous substance, prevent the entry of rainwater, minimize leaking, and protect people and wildlife from harmful exposure.

Citizen Advisory Group - An informal problem-solving group. These groups generally are not required by statute, but in some cases have been authorized by statute. Often, citizen groups are active at specific contaminated sites. In some places, corporations have created citizen advisory groups around an operating facility to improve communications with the community, and to ensure that the company is aware of issues of concern that may not be directly addressed by environmental laws and regulations.

Citizen Suits - Legal action by citizen groups that challenges environmental problems in the community. Most of the statutes discussed in this handbook have provisions that allow "any person" to sue to enforce the laws. The two types of citizen suits involve actions against EPA and actions directly against corporations or individuals.

Civil Penalties - Civil penalties assessed by the government or by a court against corporations, individuals, or other polluting sources for failure to comply with laws and/or regulations. Civil penalties are tied in part to how much harm was caused by the violation, how much money a company saved by not complying, the company's past record of violations, and how much good faith the company showed in addressing the problem.

Contaminants - Pollutants in air, water, soil, or food. A contaminant could be chemicals released by a facility, household products used incorrectly, car exhaust, stream discharges, or other materials that could cause harm to humans or the environment.

Corrective Action - A change in procedure or method to correct deviations from permit requirements, or to clean up pre-existing contamination. Under some statutes, EPA can require corrective action at existing sites as a condition of receiving a permit to continue operations.

Cumulative Health Impacts - Combined effect of multiple pollutants on an individual or individuals. Some statutes require that the government consider cumulative health impacts before allowing additional sources of pollution. This is an important consideration in neighborhoods with multiple sources of potentially hazardous substances.

Delegation - The arrangement under which a state government assumes the lead role in running a federal program. To receive delegated authority, the state must meet certain minimum requirements. For example, states typically must adopt adequate laws and regulations, and prove that they

have the funding and other resources necessary to administer and enforce the laws properly.

Discharge Monitoring Reports (DMRs) - Under the Clean Water Act, facilities must sample their discharges regularly and send monthly reports to the permitting agency. These DMRs compare the chemical content of the actual discharge to the limits set out in the facility's permit. The facility, the government, and the public can discover whether and when a facility violates its permit limits from reading DMRs.

Discretionary - Optional or non-mandatory. Some things the government must do; these are mandatory duties. Other things the government may choose to do; these are discretionary duties.

ELI Statutory Analysis - The companion report to this handbook, entitled "Opportunities for Advancing Environmental Justice: An Analysis of U.S. EPA Statutory Authorities". Available electronically at no cost from the Environmental Law Institute web site <www.eli.org>. Click on "Publications", then "2001 Research Reports" to obtain a copy.

Emergency Response Plan -Guidelines developed by state and local governments to protect the community in the case of a catastrophic occurrence, such as a facility fire or a tornado or hurricane. Under EPCRA, Local Emergency Planning Commissions prepare and provide these plans to citizens. Certain facilities that produce, use or store chemical substances must have site-specific emergency response plans.

Environmental Assessment (EA) - A preliminary analysis required by the National Environmental Policy Act. The EA is used to determine whether an activity supported by the federal government would significantly affect the environment and requires a full environmental impact assessment (EIS). Public comments on the draft EA can be instrumental in convincing an agency that an EIS is required.

Environmental Impact Statement (EIS) - An evaluation that considers fully all of the harmful effects of a proposed action on humans and ecosystems, and determines whether there are other, less harmful, ways of accomplishing the same goal, including taking no action. The public has the right to comment in this process. As part of its EIS review process, EPA is supposed to identify environmental justice communities and meet with affected groups to try to identify and understand environmental justice concerns that should be addressed in the NEPA process.

Environmental Justice - The fair treatment and involvement of all individuals and groups in environmental decision-making, regardless of race, ethnicity, or income. In this text, environmental justice issues include ensuring that agency decisions (such as issuing permits and making cleanup decisions) consider fully the impacts on environmentally burdened communities, which often already are home to many polluting facilities and activities. Environmental justice issues include aggregate and cumulative health risks, and effects on sensitive populations. Siting of new facilities is one example of an action that might involve environmental justice concerns, such as clustering of polluting facilities and cumulative impacts.

Environmentally Burdened Community - A community that has a disproportionate, or unequal, exposure to pollutants or polluting facilities.

Federal Facility - Any building, structure, installation, or equipment owned, operated, or funded by the federal government.

Federal Implementation Plan (FIP) - A plan prepared by the federal government to ensure that national air quality standards are met in particular areas around the country. A FIP is prepared only for areas of the country where the state has not adequately planned to meet air quality standards.

Federal Register - The publication in which EPA and other federal agencies publish their notices to the public about proposed actions, and advertise public comment periods. The Federal Register is searchable online at website http://www.access.gpo.gov/sudocs/aces/aces140.html.

Groundwater - Water that flows under the ground in soil layers or underground reservoirs (called aquifers). Many communities rely on groundwater as their drinking water supply.

Guidance - Recommendations on how laws should be put into action, as opposed to formal regulations or law.

Hazardous Substances - Any material that contains hazardous chemicals, as defined under CERCLA. Materials do not have to be waste to be considered a hazardous substance. Spills of hazardous substances in large enough quantities must be reported. Releases of hazardous substances into the environment can potentially be cleaned up under the Superfund program.

Hazardous Waste - Waste materials that contain certain hazardous chemicals. RCRA sets out standards for handling, storage, transportation, treatment and disposal of hazardous wastes.

Hearings - As used in this handbook, a hearing is a public meeting that comes in two general forms. One format is an informal hearing at which any member of the public may speak about a particular issue or decision currently before the agency. A more formal hearing may resemble a trial before judges, where witnesses are sworn in and evidence is considered using formal rules of evidence and procedure. Environmental laws often require or allow public testimony on important decisions to be taken at public meetings or public hearings.

Hotspot - Location where hazardous air pollution is highly concentrated in small areas, and where cumulative impacts from many pollutants are of concern. As part of its Urban Air Toxics Program, EPA is required to evaluate and address the health effects of urban pollution hotspots.

Local Emergency Planning Commission (LEPC) - A formal group established by EPCRA with a number of roles important to communities. LEPCs are notified by facilities that store or use toxic chemicals about those toxic chemicals and the LEPCs develop emergency plans based on this information. In addition, the LEPCs provide annual public notices in the local newspaper identifying where the public can view information submitted by facilities within the community about the toxic chemicals they use or store on-site, and emergency response plans. A list of Local Emergency Planning Commissions can be found at http://www.epa.gov/ceppo/lepclist.htm.

Local Information Repository - A location where public information about a Superfund cleanup is kept. This is usually at a library, which sets aside a shelf (or more) to hold the many documents that are generated in the course of investigating the environmental conditions at the site, the possible cleanup alternatives, and the selection of the cleanup alternative that will be implemented.

Major Federal Action - Any federal activity with substantial potential impact, as determined on a case-by-case basis. For example, construction of a project or financing a project with federal dollars could be considered a major federal action. The federal government issuing a license, permit or approval for a project also can be a major federal action, though many permitting procedures are considered to satisfy NEPA requirements.

Mobile Source - Something, such as a car, that emits air pollution but does not remain in one place. The Clean Air Act regulates mobile sources, as well as stationary (non-mobile) sources.

Non-discretionary - Mandatory. Citizens are entitled to sue EPA and other agencies for failing to perform non-discretionary duties.

Nonpoint Source - A source of pollution or pollutants discharged to water that does not have an identifiable or distinct source. An example of a nonpoint source is rainwater runoff from parking lots and roads, or runoff from a farm that flows over land into a stream.

Notice and Comment - Notice is the announcement to the public of a proposed agency action or plan. Notice may be provided through radio, newspaper, posters, the Federal Register, or other media. Public comment may be given in writing or as spoken testimony at a public meeting or hearing. The public also can comment through letters, reports by scientists or other experts who may be willing to help.

Permit - A document that gives permission for an activity. In the case of environmental permits, a permit is a document that sets forth the allowable amount of pollution and the standards that a permittee (the person holding the permit) must meet in order to maintain the permit or permission for their activity. The standards or conditions written into permits may include the following, and more: a requirement to sample discharges or emissions; a requirement to maintain such monitoring data and report it regularly to the government; the authority for government staff to conduct site inspections; and public notice requirements.

Permittee - The person, organization, or facility that receives a permit.

Petition - The act of formally requesting an agency or other decision-making body to make a change or take an action. Some of the environmental statutes require the agency, or other groups such as the LEPCs, to consider citizen or state petitions. A petition can also be used as a way of starting a dialogue with the agency about community issues.

Point Source - A source of pollution or pollutants discharged to water that has an identifiable or distinct source. An example of a point source is a discharge into a stream from a pipe or a ditch.

Pollution - The contamination of air, water, soil, or food supplies by toxic and other pollutants.

Pollutant - A contaminant of air, water, soil, or food. A pollutant could be chemicals released by a facility, household products used incorrectly, car exhaust, or other materials that could cause harm to humans or the environment.

Polluter - One who releases pollutants or conducts other activities without the required permits, or in violation of those permits.

Primacy - The arrangement under which the state will have the lead role in running a federal program. To receive primacy, the state must meet certain minimum requirements. For example, states typically must adopt adequate laws and regulations, and prove that they have the funding and other resources necessary to administer and enforce the laws properly.

Regulations - The rules developed by agencies that contain the details needed to implement the general requirements found in laws. Regulations are developed in draft first. The public has an opportunity to comment on regulations before they are finalized.

Right to Comment - The opportunity for citizens or citizen groups to provide input or express concerns about proposed activities or plans. The public has the right to comment under a number of different environmental laws.

Risk Assessment - A study or evaluation that identifies, and in many cases quantifies, the potential harm posed to health and the environment by contamination. Risk assessments may make assumptions about the affected community that may not be accurate. For this reason, citizen comments are useful in the risk assessment process.

Risk Management Plan (RMP) - A summary of a facility's Risk Management Program that is required of some facilities under the Clean Air Act. The RMP provides state and local governments with information about the risks of a chemical accident at a facility and what the facility is doing to prevent such accidents.

Sensitive Populations - Groups of people who are more at risk for illness or disease than the general population. This could be because they are already in poor health, or because they had more exposure to certain pollutants than other people in similar situations.

Solid Waste - Any waste that is not hazardous. This generally includes municipal garbage and non-hazardous industrial wastes.

State Emergency Response Commission (SERC) - A formal group required by EPCRA, appointed by the Governor of each state. SERCs supervise and coordinate the activities of Local Emergency Planning Commissions, which develop emergency plans in areas that house facilities storing or using toxic chemicals. A list of State Emergency Response Commissions can be found at http://www.epa.gov/ceppo/serclist.htm.

State Implementation Plan (SIP) - Plans developed by individual states to ensure that the national air quality standards are met, as required by the Clean Air Act.

Stationary Source - A source of air pollution, such as a facility, that does not move from place to place. The Clean Air Act regulates stationary sources, as well as mobile sources (ones that do move from place to place).

Subsistence - What is required to maintain life. For example, fish are a subsistence resource for many communities near rivers and lakes that do not have access to other affordable food sources.

Superfund - A common name for the program created by the Comprehensive Environmental Response, Com-pensation, and Liability Act, and the Superfund Amendments and Reauthorization Act of 1980. Sites being cleaned up under the Superfund program are known as Superfund sites.

Supplemental Environmental Project - In some cases, EPA has allowed or required companies to pay for and implement (as part of the penalty a company pays for environmental violations) "supplemental environmental projects," or SEPs, which do not benefit the company in any way. This could include restoration of other environmental resources in the area, funding of a community environmental organization, a community cleanup or beautification project, or a citizen monitoring program.

Synergistic Health Impacts - When two pollutants combined together create a more toxic substance that poses a greater health risk than each pollutant would on its own.

Total Maximum Daily Load (TMDL) - A process through which states or EPA divide or share the amount of pollution that is allowed in a water body among various pollution sources in order to implement water quality standards.

Underground Injection Well - A well leading deep underground into which potentially polluting substances are injected, usually for disposal. The SDWA regulates the use of underground injection wells to protect groundwater drinking supplies.

Variance - A procedure by which someone can ask the government for an exception from environmental requirements, due to unique circumstances. Generally, the variance process is similar to getting a permit. An application for a variance is filed, after which a proposed variance is drafted. There are often public notice and comment opportunities before the final variance is granted.

Water Quality Criteria - Water standards that identify the "designated uses" for which water bodies, such as lakes and rivers, will be protected, and the levels of water quality for various pollutants and other water conditions necessary to protect those designated uses. For example, a stream's designated use could be fishing and swimming, or drinking water supply.

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